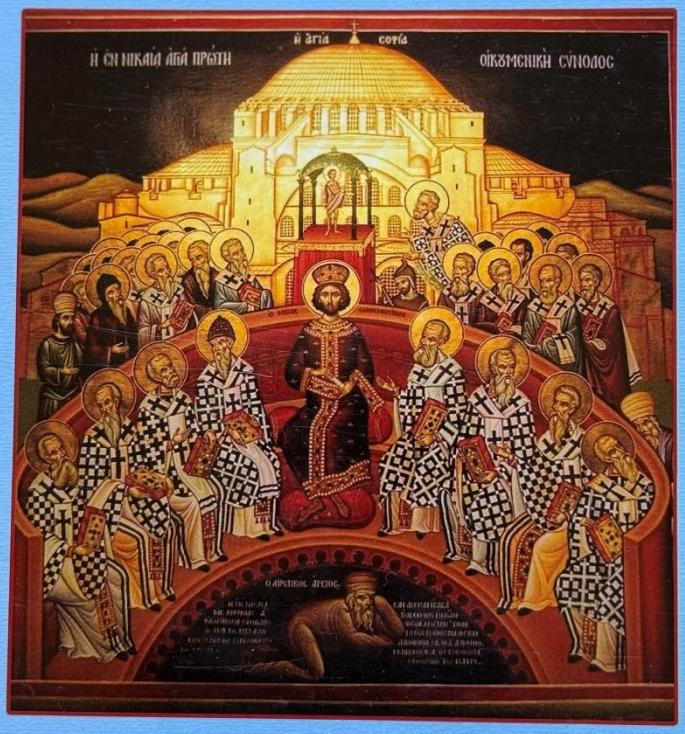
UNIVERSAL PRIMACY OF THE POPE AND SYNODALITY

Some Reflections from an Eastern Perspective



Paul Pallath

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ABBREVIATIONS

AAS	*Acta Apostolicae Sedis*
AG	*Ad gentes*
Ap.	*Apostolic*
ARP	*Acta Romanorum Pontificum*
ASS	*Acta Sanctae Sedis*
CCEO	*Codex Canonum Ecclesiarum Orientalium* (*Code of Canons of the Eastern Churches*)
CD	*Christus Dominus*
CIC	*Codex iuris canonici* 1983
CIC 1917	*Codex iuris canonici* 1917
Const.	Constitution
ETJ	*Ephrem's Theological Journal*
LG	*Lumen gentium*
MP	*Motu proprio*
NA	*Nostra aetate*
OCA	*Orientalia Christiana Analecta*
OE	*Orientalium Ecclesiarum*
OIRSI	Oriental Institute of Religious Studies India (Kottayam)
PO	*Presbyterorum ordinis*
SC	*Sacrosanctum Concilium*
SVTQR	*St. Vladimir's Theological Quarterly (or St. Vladimir's Seminary Quarterly)*
UR	*Unitatis redintegratio*
WCC	World Council of Churches

GENERAL INTRODUCTION

On 18 October 1990 Pope John Paul II promulgated the *Code of Canons of the Eastern Churches*[1], which came into force on 1 October 1991. One of the central themes of the Code is the synodal functioning in the Eastern Catholic Churches. In view of the importance of synodality in the East, I decided to write my doctoral thesis on the same subject, entitled *The Synod of Bishops of Catholic Oriental Churches*, which was defended on 10 January 1994 at the Faculty of Canon Law of the Pontifical Oriental Institute in Rome.

Based on my doctoral dissertation, a book with the same title was published in Rome in 1994. The book was published by *Mar Thoma Yogam*, a voluntary (unregistered) association of priests and religious of the Syro-Malabar and Syro-Malankara Churches resident in Rome for study or service purposes. As *Mar Thoma Yogam* did not have a distribution network, copies of the book were only distributed to a few libraries.

Later in 1997 I published another book: *Local Episcopal Bodies in East and West*, a comprehensive study of synodality in East and West at the national, regional and Church *sui iuris* levels[2]. This book comprises 11 chapters and deals with the synod of bishops of the Eastern Catholic Churches, the council of hierarchs of the metropolitan Churches *sui iuris*, the patriarchal, major archiepiscopal and metropolitan assemblies, the particular councils and bishops' conferences of the Latin Church, as well as the assemblies of hierarchs of several Churches *sui iuris*, which are a common institution of the East and the West for the promotion of communion and co-operation between the Churches of the East and the West on the same territory or in the same nation. Prof Clarence Gallagher SJ, former Rector of the Pontifical Oriental Institute (Rome) and Dean of the Faculty of Oriental Canon Law, wrote the following about this work in the foreword:

---

[1] *Codex Canonum Ecclesiarum Orientalium* (CCEO) was officially published in *AAS* 82 (1990) 1134-1163.

[2] P. Pallath, *Local Episcopal Bodies in East and West*, (OIRSI) Kottayam 1997. This book is also available on www.academia.edu.

> It is a clear and well-documented account of the historical roots as well as the structure and function of *Local Episcopal Bodies in East and West* that provides much useful historical and canonical information concerning all the local episcopal bodies that are enumerated in the *Codex Canonum Ecclesiarum Orientalium* and in the *Codex Iuris Canonici*. The decision to discuss both codes is a wise one and one that will encourage mutual recognition and cooperation between all the Catholic Churches[3].

In April 2021 Pope Francis announced the XVI Ordinary General Assembly of the Synod of Bishops on synodality, the exact theme of which was: *For a Synodal Church: Communion, Participation and Mission.* In fact, the Pope initiated a synodal journey of the entire people of God, which began in October 2021 in each local Church[4]. The synodal journey then went through the national and continental phases and led to the celebration of the Assembly of the Synod of Bishops in the two sessions of October 2023 and October 2024.

Since I studied at least some aspects of synodality and published two books about 25 years ago, I thought of publishing some articles on the same topic after the announcement of the synod on synodality. Since I had already dealt with synodality at regional, national and individual (*sui iuris*) Church levels, I decided to write about the synodality of the universal Church, which is inseparable from the universal primacy of the Bishop of Rome. This resulted in five articles dealing with universal primacy and synodality from apostolic times up to and including the Second Vatican Council. These five articles and their bibliographical details follow:

1. "Apostolic Synod of Jerusalem as the Model and Inspiration of Synodality", in *Christian Orient*, vol. 46/1 (2023) 9-26.

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[3] C. Gallagher, "Preface", in P. Pallath, *Local Episcopal Bodies in East and West*, 13.

[4] Cf. Secretariate of the Synod of Bishops, *For a Synodal Church: Communion, Participation and Mission, Vademecum for the Synod on Synodality and Preparatory Document,* Vatican City 2021.

2. "Primacy and Synodality according to the Common Tradition of the Church in the First Millennium", in *Iustitia,* vol. 14, no. 1 (June 2023) 9-47.
3. "Consolidation of Roman Primacy and the Decline of Synodality in the Second Millennium until the Second Vatican Council", in *Iustitia*, vol. 14, no. 2 (December 2023) 57-105.
4. "Primacy of the Pope and Collegiality of Bishops according to the Second Vatican Council", in *Ephrem's Theological Journal*, vol. 28, no. 1 (March 2024) 36-75.
5. "Petrine Ministry, Collegiality and synodality in the Light of the Communion Ecclesiology of the Second Vatican Council", in *Iustitia*, vol. 15, no. 1 (June 2024) 9-36[5].

Although these studies were originally written as independent articles, they organically and progressively develop the same theme in chronological order and can therefore be easily compiled into a coherent work after revision and sufficient editing. This is how the present book came about: *Universal Primacy of the Pope and Synodality: Some Reflections from an Eastern Perspective*. For the reasons just mentioned, the five studies are not presented as separate articles, but as different chapters of an organic work. This book is also written from an Eastern perspective, recognising the theological scholarship of Orthodox scholars.

The third article: "Consolidation of Roman Primacy and the Decline of Synodality in the Second Millennium until the Second Vatican Council" has become quite long due to further additions and integrations and is therefore divided into two chapters, which are inextricably interwoven as cause and effect. The decline of synodality in the second millennium is a natural consequence of the supreme power and universal jurisdiction of the Roman Pontiff and the centralisation of ecclesiastical governance in the Roman Curia. As a result, chapter three will be devoted to the consolidation of Roman primacy in the second millennium with supreme power and universal jurisdiction, and chapter four will deal with the decline of

---

[5] I thank the editors of *Christian Orient, Ephrem's Theological Journal* and *Iustitia* for the publication of these articles and for their encouragement and support.

synodality in the Esat and the West in the second millennium up to the Second Vatican Council. Of course, articles four and five will become chapters five and six.

After these articles were completed, two important documents came to light in 2024. The Dicastery for Promoting Christian Unity published a study document with the agreement of Pope Francis: *The Bishop of Rome: Primacy and Synodality in the Ecumenical Dialogues and in the Responses to the Encyclical Ut unum sint*[6]. This document is not a summary of the Catholic magisterium on the subject, but a synthesis of "some thirty responses to *Ut unum sint* and fifty ecumenical dialogue documents[7]", that were produced over a period of some 25 years (1995-2024) after the publication of the said encyclical. Although it is a study document, at the end on pages 117-134 it contains "a brief proposal of the 2021 Plenary Assembly of the Dicastery, entitled 'Towards an Exercise of Primacy in the 21st Century', which identifies the main proposals from the various responses and dialogues for a renewed exercise of the ministry of unity of the Bishop of Rome"[8]. This proposal, which was approved by the plenary assembly and published in agreement with Pope Francis, can be considered as an authentic statement, which I will cite to support my findings.

The *Final Document* of the aforementioned XVI Ordinary General Assembly of the Synod of Bishops was adopted at the 17th General Congregation on 26 October 2024 with the approval of more than two thirds of the members of the Assembly present at the

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[6] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality in the Ecumenical Dialogues and in the Responses to the Encyclical Ut Unum Sint, A Study Document*, Vatican City 2024. John Paul II promulgated the encyclical on Christian unity, *Ut unum sint* on 25 May 1995; original text in *AAS* 87 (1995) 921-982.

[7] K. Koch, "Preface", in Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 1-2.

[8] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", in *The Bishop of Rome: Primacy and Synodality*, 117-134 (separate nos. 1-30).

vote[9]. It was also approved by Pope Francis, as can be seen from the note accompanying the *Final Document* dated 24 November 2024[10]. Although the focus of the *Final Document* is synodality at local and regional levels, some paragraphs are dedicated to "the service of the Bishop of Rome" and the Roman Curia (numbers 130-139).

When revising my five articles into an organic book, I have taken these two documents into account and made some integrations based on them. In fact, my findings, observations and suggestions have been underpinned, confirmed and strengthened by these documents.

Finally, some indications are given of the final structure and content of the book. After presenting the apostolic synod of Jerusalem on the question of the reception of the Gentiles into Christianity as a model and inspiration for synodality in the Church (first chapter), the second chapter shows the synergetic balance between primacy and synodality in the first millennium at the metropolitan, patriarchal and universal levels, according to the common tradition of the Church, which was a communion of the Churches of the East and the West.

In the particular historical, political and ecclesiastical context of the second millennium, Roman monarchical primacy developed with supreme, full and absolute power and with universal, ordinary and episcopal jurisdiction over the Catholic Church, culminating in the proclamation of the dogmas of primacy and the personal infallibility of the Pope at the First Vatican Council (chapter three). As a result of the development of Roman primacy at such a level in the second millennium, the sacramentality and collegiality of the episcopate were obscured, the power of metropolitans and patriarchs was interpreted as sharing in the God-given full power of the Roman Pontiff, and synodality declined in the East and practically disappeared in the West (chapter four).

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[9] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church: Communion, Participation, Mission, Final Document*, Vatican City 2024.

[10] Francis, Accompanying Note, in Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church*, 3-4.

The Second Vatican Council reestablished a balance between the universal primacy of the Bishop of Rome and synodality by restoring the sacramentality and collegiality of the bishops and placing the personal infallibility of the Pope in the context of the ecclesial infallibility of the entire People of God and the universal episcopate (chapter five). The Second Vatican Council also restored the ecclesiology of communion, according to which the primacy of the Bishop of Rome is a service to unity in the Catholic communion of Churches, safeguarding authentic faith and morals and ensuring liturgical order and canonical discipline in the event of disputes and conflicts according to truth and justice (chapter six). The book ends with a bibliography and an index of relevant subjects.

Chapter One

APOSTOLIC SYNOD OF JERUSALEM AS THE MODEL AND INSPIRATION OF SYNODALITY

Introduction

The origin and development of synods and councils can be traced back to apostolic praxis as described in the *Acts of the Apostles*. According to the testimony of the *Acts*, the leadership of the primitive communities of Jerusalem was initially entrusted to the twelve apostles, led by Peter, who were assisted by presbyters and elders. Also, the presbyters and elders participated in the responsibilities of the apostles, although in a subordinate way. They also participated in the decision-making assemblies, which could be called "synodal assemblies" in the broadest sense, not in the technical sense ascribed to them today[1].

Many see the application of the principle of synodality, especially in connection with the election of Matthias (*Acts* 1:15-26), the election of seven deacons (*Acts* 6:1-6) and the synod of Jerusalem (*Acts* 15), since these decisions were made "in agreement with the whole Church" or jointly[2]. Matthias was elected in the community of all. Peter, as the head of the community of "believers", took the initiative to select "one of the men who have accompanied us during all the time that the Lord Jesus went in and out among us, beginning from the baptism of John until the day when he was taken up from us–one of these must become a witness

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[1] Cf. D. Faltin, "L'institution synodale dans le concile Vatican II", in *Kanon* 2 (1974) 39-40.

[2] Cf. P. Trembelas, *Dogmatique de l'Eglise orthodoxe*, vol. 2, Burges 1967, 398-399; P. Duprey, "The Synodical Structure of the Church in Eastern Theology", in *One in Christ* 7 (1971) 152-153; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali nella legislazione canonica antica", in *Nicolaus 2* (1978) 227-228; J. Forget, "Conciles", in *Dictionnaire de Théologie Catholique*, Tome III, Paris 1908, 637.

with us to his resurrection" (*Acts* 1: 21-22)[3]. After Peter's proposal, the Christian community presented two persons, Joseph (Barsabbas) and Matthias, who were worthy of the office and apostleship. Then they prayed and chose Matthias by lot, who was added to the eleven apostles (*Acts* 1: 23-26).

Similarly, the twelve apostles called together "the whole community of the disciples" to select the seven deacons (*Acts* 6: 2). The community of disciples selected from among them "seven men of good standing, full of the Spirit and of wisdom" (cf. *Acts* 6: 3), whom they presented to the apostles. The apostles prayed and then laid hands on them, and so they became the first deacons (*Acts* 6: 6). The first ministers were thus elected by the "community of disciples" and then "consecrated" by the apostles.

Following this introduction to synodality in the *Acts of the Apostles*, the synod of Jerusalem (*Acts* 15: 1-41) is discussed in detail because it well expresses the nature and characteristics of a synod or council and is considered by many to be the authentic model of synodality and decision-making in the Church[4]. Obviously the word synod or council did not exist at that time.

1. Conversion of Gentiles and the Question of Circumcision as the Context of the Synod of Jerusalem

In the beginning Christianity appeared as a ramification of the "Jewish religion", because Jesus Christ, the Blessed Virgin Mary, St Joseph, the twelve apostles, other disciples and followers of Christ belonged to the Jewish religion. Even the feast of Pentecost, during which the Holy Spirit descended on the apostles and disciples, was a "Jewish Pentecost". The participants of Pentecost were "devout Jews from every nation" (*Acts* 2: 5) or "both Jews and proselytes" (*Acts* 2: 10), namely Jews by birth and those who had converted to Judaism.

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[3] All the scriptural citations in this book are taken from the *Holy Bible*, New Revised Standard Version (NRSV), Bangalore 2007.

[4] I do not deal with the historicity of the assembly of Jerusalem, which is generally considered to have been held around the year 51 AD.

Regarding the relationship between the Church and Judaism, the Second Vatican Council, citing the Apostle Paul, affirms: "The Church keeps ever in mind the words of the Apostle about his kinsmen: "theirs is the sonship and the glory and the covenants and the law and the worship and the promises; theirs are the fathers and from them is the Christ according to the flesh" (*Rom*. 9: 4-5), the Son of the Virgin Mary. She also recalls that the Apostles, the Church's main-stay and pillars, as well as most of the early disciples who proclaimed Christ's Gospel to the world, sprang from the Jewish people"[5].

The admission of the Gentiles to Christianity was the result of a gradual process guided by the Holy Spirit and a growing awareness of God's universal will for salvation. It was Peter himself, the head of the apostles, who first opened the gates of Christianity to the Gentiles. As described in the *Acts of the Apostles* (chapter 10), Cornelius of Caesarea, a gentile centurion of the Italian cohort, sent messengers to Peter in Joppa at the behest of the angel of the Lord, who came to the house of Cornelius, where his relatives and close friends were also gathered. While the apostle Peter was still speaking of Jesus Christ, the Holy Spirit fell on Cornelius and on all who heard the Word, who were all Gentiles. When Peter saw this, he said, "Can anyone withhold the water for baptizing these people who have received the Holy Spirit just as we have? So he ordered them to be baptized in the name of Jesus Christ" (*Acts* 10: 47-48).

This event is often referred to as the "Gentile Pentecost" because just as the Holy Spirit came upon the Jews on the day of Pentecost, represented by the disciples and the other 120 people in Jerusalem, He also came upon the Gentiles, represented by the house of Cornelius. In this case, the Holy Spirit descended on Cornelius and his family even before they were baptized in water, and in fact the descent of the Holy Spirit served as a guarantee of their baptism. The baptism in the Holy Spirit was performed by God to convince Peter to administer water-baptism[6]. In fact, it was the very pre-

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[5] Vatican II, *Nostra aetate* (Declaration on the Relation of the Church to Non-Christian Religions), no. 4.

[6] Cf. E. Ferguson, *Baptism in the Early Church: History, Theology, and Liturgy in the First Five Centuries*, Cambridge 2009, 175-178.

baptismal gift of the Holy Spirit that would serve as the basis for their subsequent and immediate baptism[7]. According to Luke's account, Peter administered baptism to the Gentiles for the first time and thus received them into the Church even without consulting the other apostles, for he acted under the sole impulse of the Holy Spirit; the real agent in this event was the Holy Spirit, who took the entire initiative, and Peter was only an instrument[8].

Despite the Cornelius episode, Peter is generally considered an apostle to the Jews, while Paul is regarded an apostle to the Gentiles, universalizing the Church, converting Gentiles from various nations. In fact, through the missionary activity of Paul and Barnabas[9], many Gentiles came to believe in Jesus Christ, and thus a Christian community originated in Antioch (*Acts* 11: 19-24; 13: 13-52; 14: 21-28). Paul and Barnabas returned to Antioch after their first missionary journey and the evangelization of many peoples in Asia Minor. When they arrived there, they called the Church together and reported what God had done with them and how He had opened a door of faith to the Gentiles (*Acts* 14: 27). At this point, a problem emerged in Antioch, which Luke describes as follows:

> Then certain individuals came down from Judea and were teaching the brothers, "Unless you are circumcised according to the custom of Moses, you cannot be saved". And after Paul and Barnabas had no small dissension and debate with them, Paul and Barnabas and some of the others were appointed to go up to Jerusalem to discuss this question with the apostles and the elders (*Acts* 15: 1-2).

Those who provoked the controversy were "certain individuals came down from Judea". They were targeting those who had been converted to Christianity from Gentiles. About these troublemakers,

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[7] Cf. Y. Congar, *I Believe in the Holy Spirit*, vol. II (*'He Is Lord and Giver of Life')*, New York 2001, 193; M. E. Johnson, *The Rites of Christian Initiation*: *Their Evolution and Interpretation* (revised and expanded edition), Collegeville 2007, 32.

[8] Cf. J. M. R. Tillard, *Church of Churches: The Ecclesiology of Communion*, Minnesota 1992, 198; Y. Congar, *I Believe in the Holy Spirit*, vol. II, 193.

[9] Barnabas was one of the very first followers of Jesus and a leader of the early Church. His original name was Joseph, but those who knew him well gave him the new name Barnabas, which means 'son of encouragement'. For information about him, see *Acts* 4: 36-37; 11: 25-26; 14: 1 and 15: 36-40.

Paul writes to the Galatians that at first there were no problems with the conversion of Gentiles, but later the situation changed: "But because of false believers secretly brought in, who slipped in to spy on the freedom we have in Christ Jesus, so that they might enslave us–we did not submit to them even for a moment, so that the truth of the gospel might always remain with you" (*Gal*. 2: 4-5). In any case, the advocates of Judaism claimed that "Unless you are circumcised according to the custom of Moses, you cannot be saved". In their view, circumcision and observance of the Mosaic law were necessary for salvation and therefore should be imposed on all who would embrace the Christian faith. It should be noted that the admission of Gentiles to Christianity is not the point of contention, but only the conditions for their admission[10].

Paul and Barnabas, who opened the borders of Christianity to the Gentiles in Antioch and other neighbouring places without requiring them to be circumcised, defended their position. So there was much controversy and debate over the issue, and finally Paul and Barnabas and some other delegates were commissioned by the Church to go to Jerusalem "to discuss this question with the apostles and the elders".

2. The Assembly of the Whole Community and the Opposition of Some

The delegation from Antioch, led by Paul and Barnabas, soon reached Jerusalem and was warmly welcomed by the entire Christian community. Luke describes the event as follows:

> When they came to Jerusalem, they were welcomed by the church and the apostles and the elders, and they reported all that God had done with them. But some believers who belonged to the sect of the Pharisees stood up and said, "It is necessary for them to be circumcised and ordered to keep the law of Moses" (*Acts* 15: 4-5).

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[10] Cf. G. Leonardi, "É ancora attuale il concilio di Gerusalemme? (At 15, 1-35)", in *Credere Oggi* 76 (1993) 22; cf. R. Fabris, *Atti degli Apostoli*, Brescia 1979, 96; G. Schneider, *Commento teologico del nuovo testamento, gli atti degli apostoli,* parte seconda, Brescia 1986, 235; F. F. Bruce, *The Book of the Acts*, Michigan 1986, 303; *The Interpreter's Bible,* vol. IX, New York 1951, 195-197; *The New Interpreter's Bible,* vol. X, Nashville 2002, 205-206.

Three kinds of people are mentioned in the text: "the church" (the entire community of believers), "the apostles" and "the elders". At the meeting held before the synod to hear Paul and Barnabas, they were all present[11]. Therefore, this can be considered a preliminary meeting of the entire people of God for consultation and discussion.

Paul and Barnabas "reported all that God had done with them" to the assembly, namely the conversion of many Gentiles, their baptism and reception into the Church. However, the whole community did not receive this message with joy. "Some believers who belonged to the sect of the Pharisees", perhaps the emissaries of those who were causing trouble in Antioch, or others who held the same position in the Jerusalem Church, rose up and said, "It is necessary for them to be circumcised and ordered to keep the law of Moses". In fact, this group held that keeping the law of Moses was absolutely necessary for salvation, and therefore Gentiles who wished to embrace the Christian faith should first be circumcised, and they should be required to keep the law of Moses. All believers participated in these preliminary discussions, together with the apostles and elders.

3. The Synodal Assembly of the Apostles and Elders

After the assembly of all Christian believers and joint deliberations, "the apostles and the elders met together to consider this matter" (*Acts* 15: 6). Although the entire Christian community was present at the meeting that preceded the synod to hear Paul and Barnabas, the synod itself was attended only by the apostles and elders, who are authentic witnesses of the Gospel and primarily responsible for the Church. Paul and Barnabas, of course, participated in the synod[12]. After the problem had been discussed at length, Peter stood up and expressed his authoritative opinion.

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[11] Cf. J. D. Zizioulas, "The Development of Conciliar Structures to the Time of First Ecumenical Council", in *Councils and Ecumenical Movement* (WCC Studies 5), Geneva 1968, 36.

[12] Cf. J. D. Zizioulas, "The Development of Conciliar Structures", 36.

3.1. Discourse of Peter

As head of the apostles, Peter was the first to speak in the synod. Because of the vision from heaven in Joppa (*Acts* 10:9-16) and having personally seen the work of the Holy Spirit on the Gentiles in the Cornelius episode, Peter already had a clear and certain idea of the salvation of the Gentiles and their reception into the Church, even before the problem of circumcision arose.

Based on his own experience in Joppa at the baptism of Cornelius and his household, Peter categorically affirmed at the synod that the Gentiles had heard the word of God and had received the Holy Spirit just as the other disciples had, and that God Himself had thus proved that circumcision and the Mosaic law were not necessary for salvation. The book of *Acts* reports on the discourse of Peter as follows:

> My brothers, you know that in the early days God made a choice among you, that I should be the one through whom the Gentiles would hear the message of the good news and become believers. And God, who knows the human heart, testified to them by giving them the Holy Spirit, just as he did to us; and in cleansing their hearts by faith he has made no distinction between them and us. Now therefore why are you putting God to the test by placing on the neck of the disciples a yoke that neither our ancestors nor we have been able to bear? On the contrary, we believe that we will be saved through the grace of the Lord Jesus, just as they will (*Acts* 15: 7-11).

Peter's argument was very sound and convincing because it was based on the testimony of God Himself, who made no distinction between Jews and Gentiles in bestowing the Holy Spirit, as is evident from the incident of Cornelius and his household. Peter concluded that all, whether Jews or Gentiles, are equally "saved by the grace of the Lord Jesus" (*Acts* 15: 11) and therefore, of course, circumcision and observance of Mosaic law are not necessary for salvation[13].

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[13] Cf. G. Schneider, *Commento teologico del nuovo testamento*, 237-238; F. F. Bruce, *The Book of the Acts*, 306-307; *The Interpreter's Bible,* vol. IX, 198-201; *The New Interpreter's Bible*, vol. X, 207-208.

3.2. Testimony of Paul and Barnabas

The synod of Jerusalem did not end with Peter's speech, but the discussions and debates continued. The whole assembly was silent and listened to Paul and Barnabas, who told them about "all the signs and wonders that God had done through them among the Gentiles" (*Acts* 15: 12). The missionary experiences of Paul and Barnabas confirmed and substantiated Peter's position that the Mosaic Law was not applicable to gentile converts. Paul and Barnabas defended their position not theoretically but only indirectly by describing facts, namely the miracles that God Himself had done through them among the Gentiles, thus confirming that their position was in accordance with God's plan of salvation[14].

Later in the *Letter to the Galatians* Paul proudly recalls the synod of Jerusalem and the approval of the other apostles for his mission among the Gentiles: "[…] I had been entrusted with the gospel for the uncircumcised, just as Peter had been entrusted with the gospel for the circumcised (for he who worked through Peter making him an apostle to the circumcised also worked through me in sending me to the Gentiles), and when James and Cephas and John, who were acknowledged pillars, recognized the grace that had been given to me, they gave to Barnabas and me the right hand of fellowship, agreeing that we should go to the Gentiles and they to the circumcised" (*Gal*. 2: 7-9). In this passage, John is also explicitly mentioned; it is sure that all the apostles present in Jerusalem participated in the synod, even if their names are not explicitly mentioned in the *Acts of the Apostles*.

3.3. Declaration of James (*Acts* 15: 13-21)

In agreement with Peter, Paul and Barnabas, James, who led the Church in Jerusalem, also accepted the fundamental principle that circumcision and the Mosaic law should not be imposed on Gentiles who wished to accept the Christian faith. He corroborated this position citing Prophet Amos 9, 11-12, in which the prophet reveals God's will for universal salvation and foresees conversion

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[14] Cf. G. Leonardi, "É ancora attuale il concilio di Gerusalemme?", 26; G. Schneider, *Commento teologico del nuovo testamento*, 238-239.

"from all other peoples" and "all the Gentiles". "His speech shows a vision of the Church's mission that is firmly grounded in God's plan, but at the same time is open to Him making Himself present in the gradual unfolding of the history of salvation"[15]. For the peaceful coexistence of Jewish and gentile Christians, James suggested that the latter should abstain: a) only from things defiled by idols, b) from fornication, c) from whatever has been strangled and finally, d) from blood[16]. The synod accepted the four "necessary things" proposed by James as it is evident from the following synodal letter.

4. Final Decision and Synodal Letter (*Acts* 15: 23-29)

After much discussion and debate on various aspects of the issue, the "apostles and elders" came to a final decision on the matter based on a common consensus. Moreover, "with the consent of the whole church" they choose two leading "men from among their members", Judas and Silas[17], "leaders among the brothers" as official delegates of the Church and sent them, along with Paul and Barnabas, to Antioch, with the following written synodal letter:

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[15] International Theological Commission, *Synodality in the Life and Mission of the Church*, Vatican City 2018, no. 20. Pope Paul VI established the International Theological Commission in conjunction with the Congregation (Dicastery) for the Doctrine of the Faith on 11 April 1969. The task of the Commission is to assist the Holy See, and especially the Dicastery for the Doctrine of the Faith, in the examination of doctrinal questions of great importance.

[16] For details and interpretation, cf. G. Leonardi, "É ancora attuale il concilio di Gerusalemme?", 26-30; R. Fabris, *Atti degli Apostoli*, 97; G. Schneider, *Commento teologico del nuovo testamento*, 239-243; F. F. Bruce, *The Book of the Acts*, 309-312; *The Interpreter's Bible,* vol. IX, 202-203; *The New Interpreter's Bible*, vol. X, 217-220.

[17] Silas was a courageous missionary in the early Church, a companion of the apostle Paul, and a faithful servant of Jesus Christ. Silas accompanied Paul on his missionary journeys to the Gentiles and converted many to Christianity. He may also have served as a scribe and delivered Peter's first letter to the Churches in Asia Minor. Cf. *Acts* 16: 19-29, 17: 4-7, 10-15; 18: 5; 2 *Cor*. 1: 19. The Judas mentioned here could be Judas Barsabbas, a prophet and one of the leading men in the early Christian community in Jerusalem. Cf. Richard R. Losch, *All the People in the Bible: An A-Z Guide to the Saints, Scoundrels, and Other Characters in Scripture*, Cambridge 2008, 243-244.

> The brothers, both the apostles and the elders, to the believers of Gentile origin in Antioch and Syria and Cilicia, greetings. Since we have heard that certain persons who have gone out from us, though with no instructions from us, have said things to disturb you and have unsettled your minds, we have decided unanimously to choose representatives[i] and send them to you, along with our beloved Barnabas and Paul, who have risked their lives for the sake of our Lord Jesus Christ. We have therefore sent Judas and Silas, who themselves will tell you the same things by word of mouth. For it has seemed good to the Holy Spirit and to us to impose on you no further burden than these essentials, that you abstain from what has been sacrificed to idols and from blood and from what is strangled[j] and from fornication. If you keep yourselves from these, you will do well. Farewell.

From the introduction of this synodal letter it is evident that the senders of the letter are "both the apostles and the elders", the leaders of the Jerusalem Church, and the recipients are "the believers of Gentile origin in Antioch and Syria and Cilicia", that is, not only the Christians of gentile origin in Antioch, but also the Church scattered in the provinces of Syria and Cilicia. The middle part of the letter highlights how the two delegates were chosen: "we have decided unanimously to choose representatives and send them to you", and they were officially authorized by the authorities in Jerusalem to publish and carry out the decision of the synod. At the end of the letter, the synodal decision is reproduced, as it was exactly decided at the synod: "to impose on you no further burden than these essentials". Then the four "essentials" decided by the synod are enumerated, thus excluding all others, especially the Mosaic law and circumcision, the main subjects of controversy.

The decree, which repeats exactly what was established at the synod, is presented in a very solemn form as the joint work of the Holy Spirit and the apostles: "it has seemed good to the Holy Spirit and to us" and consequently it should be obediently accepted by all[18]. The decision is made and communicated exclusively by the "apostles and the elders", and it is to them that the important phrase

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[18] Cf. G. Leonardi, "É ancora attuale il concilio di Gerusalemme?", 76; G. Schneider, *Commento teologico del nuovo testamento*, 243-247; F. F. Bruce, *The Book of the Acts*, 313-316; *The Interpreter's Bible,* vol. IX, 205-207; *The New Interpreter's Bible*, vol. X, 220-221.

is to be referred: "It has seemed good to the Holy Spirit and to us". The role of the whole community was limited to the preparatory meetings and discussions, which were about their information and initial assessment. But the decision itself, made in the presence of the Holy Spirit, as well as its announcement and promulgation were the responsibility and right of the "apostles and elders" [19].

As we have already seen, the synodal letter mentions an invisible member of the synod, namely the Holy Spirit. The synods and the canons are qualified, especially in the East, by the adjectives holy and sacred respectively, because all real synodal activity is the joint effort of the bishops and the Holy Spirit, who is the source of all holiness. If anarchism, individualism, libertinism, megalomania, secularism, sectarianism, excessive provincialism and selfish prejudices are not burned in the fire of the Holy Spirit, with due submission to His promptings, in view of the common good, the synod may prove unholy, and consequently the decisions of such synods cannot be called "sacred". A synod without the Holy Spirit may be characterized by some of the "works of the flesh" such as enmity, strife, jealousy, anger, quarrelling, discord, divisions, envy, and carousing (cf. *Gal*. 5: 20-21). In contrast, a synod guided and enlightened by the Holy Spirit can produce fruits of the Spirit such as "love, joy, peace, patience, kindness, generosity, faithfulness, gentleness, and self-control" (cf. *Gal* 5: 22-23), as well as unity, harmony, and fellowship.

The apostles and elders who participated in the synod were of Jewish origin. If they had decided according to the "flesh", that is, according to human criteria, the decision would most likely have been in favour of the Judaeo-Christian groups and would have mandated adherence to the Mosaic law. On the contrary, renouncing human wisdom and ethnic preference, they recognised, under the guidance of the Holy Spirit, the universal salvific will of God and, in accordance with the teachings of Christ (cf. *Mt*. 28: 18-19; *Mk*. 16: 15-16; *Lk*. 24: 47; *Acts* 1: 8) and the promptings of the Spirit,

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[19] Cf. J. D. Zizioulas, "The Development of Conciliar Structures", 37; J. A. Fischer, "Die ersten Synoden", in W. Brandmüller, *Synodale Strukturen der Kirche*, Donauwörth 1977, 31.

made a right decision that corresponded to the inscrutable plan of salvation and accompanying providence of God.

5. Peaceful Reception of the Synodal Decision by the Church (*Acts* 15: 30-34)

As we have already seen, after the synod was concluded, Barnabas and Silas were chosen by the apostles and elders "with the consent of the whole church" (*Acts* 15: 22) to carry the synodal letter to Antioch and officially transmit the decisions of the synod. The expression "with the consent of the whole church" indicates that the synodal decision was accepted and adopted by the entire assembly in Jerusalem[20]. As decided, Judas and Silas, together with Paul and Barnabas, went to Antioch, where the problem had originated, and delivered the synodal letter to the Church. Luke describes this important event as follows:

> So they were sent off and went down to Antioch. When they gathered the congregation together, they delivered the letter. When its members read it, they rejoiced at the exhortation. Judas and Silas, who were themselves prophets, said much to encourage and strengthen the believers. After they had been there for some time, they were sent off in peace by the believers to those who had sent them.

Luke highlights the reaction of the community when the synodal letter was delivered: "When its members read it, they rejoiced at the exhortation", meaning that they received the synod's decision with joy and comfort. The two delegates, with their charisms, also exhorted the brothers with many words and strengthened them in the faith. Since the synod had made a final decision, all subsequent discussions and exhortations concerned only the ways and means of implementing the synod's decision. Anyway, the problem was finally solved and after some time the two delegates returned to Jerusalem.

Both before and in the synod of Jerusalem, there were heated debates and discussions on the question of whether converts of

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[20] Cf. International Theological Commission, *Synodality in the Life and Mission of the Church*, no. 21.

gentile origin should be circumcised and be required to keep the Mosaic law before being received into Christianity by the baptism of "water and Spirit". With the authoritative decision of the synod of Jerusalem, the problem was solved forever, and it was wholeheartedly accepted by both opposing groups, namely the Jewish Christians and the gentile believers, and thus peace, harmony, and unity began to prevail in the early Church. This is the way of synodality for all peoples and all times. Once a final decision has been made by a synod, the true disciples and believers of Christ always receive it with joy, comfort and a spirit of obedience.

The validity of the decisions of a synod does not depend on their reception by Christian communities, although the decisions become effective only if they are accepted and implemented by at least a large majority of those concerned. The conciliar history of the Church shows that the question of observance of the Mosaic law has not been discussed again at any of the synods or councils. Even if some Jewish Christians had not accepted the apostolic decision, it would have remained valid. In this case, however, both groups joyfully and willingly accepted the decision, strengthening the unity and fellowship of the early Church.

This important apostolic decision, which always remains valid, also paved the way for the universalization of Christianity and the rapid spread of the Christian faith throughout the world, embracing all who accepted the good news and believed in Jesus Christ, regardless of nations, cultures, religions, ethnic groups and castes. The then Congregation (now Dicastery) for Divine Worship and the Discipline of the Sacraments rightly affirms:

> Faith in Christ offers to all nations the possibility of being beneficiaries of the promise and of sharing in the heritage of the people of the covenant (cf. *Eph*. 3: 6), without renouncing their culture. Under the inspiration of the Holy Spirit, following the example of Saint Peter (cf. *Acts* 10), Saint Paul opened the doors of the Church not keeping the Gospel within the restrictions of the Mosaic law, but keeping what he had received of the tradition which came from the Lord (cf. 1 *Cor*. 11: 23). Thus from the beginning, the Church did not demand of converts who were uncircumcised

"anything beyond what was necessary" according to the decision of the apostolic assembly of Jerusalem (cf. *Acts* 15: 28)[21].

6. The Decision of the Synod of Jerusalem as an Essential Element of St Paul's Teaching

In the *Letter to the Romans*, Paul has a long discussion about circumcision and keeping the Mosaic law and concludes that all who believe, whether Jews or Gentiles, are saved by faith in Jesus Christ (*Rm.* 2: 17-4, 25). He teaches that a person is not justified by the works of the (Jewish) law, but by faith in Jesus Christ; no one is justified by the works of the law (*Gal*. 2: 15-17). In the *Letter to the Ephesians*, Paul describes in a wonderful way how Jesus Christ brought both groups, Jews and Gentiles, together through his blood, broke through the dividing wall and abolished the Mosaic law:

> So then, remember that at one time you Gentiles by birth, called "the uncircumcision" by those who are called "the circumcision"–a physical circumcision made in the flesh by human hands–remember that you were at that time without Christ, being aliens from the commonwealth of Israel, and strangers to the covenants of promise, having no hope and without God in the world. But now in Christ Jesus you who once were far off have been brought near by the blood of Christ. For he is our peace; in his flesh he has made both groups into one and has broken down the dividing wall, that is, the hostility between us. He has abolished the law with its commandments and ordinances, that he might create in himself one new humanity in place of the two, thus making peace, and might reconcile both groups to God in one body through the cross, thus putting to death that hostility through it. So he came and proclaimed peace to you who were far off and peace to those who were near; for through him both of us have access in one Spirit to the Father. So then you are no longer strangers and aliens, but you are citizens with the saints and also members of the household of God, built upon the foundation of the apostles and prophets, with Christ Jesus himself as the cornerstone. In him the whole structure is joined together and grows into a holy temple in the

[21] Congregation for Divine Worship and the Discipline of the Sacraments, *The Roman Liturgy and Inculturation*, IV Instruction for the Right Application of the Conciliar Constitution on the Liturgy (nn. 37-40), Rome 1994, no. 14.

> Lord; in whom you also are built together spiritually into a dwelling place for God (*Eph*. 2: 14-22).

Paul goes on to state that by the mystery of Christ "the Gentiles have become fellow heirs, members of the same body, and sharers in the promise in Christ Jesus through the gospel" (*Eph*. 3: 6) and according to the gift of God's grace Paul became a servant "to bring to the Gentiles the news of the boundless riches of Christ (cf. *Eph*. 3: 7-9). Paul proclaims: "There is one body and one Spirit, just as you were called to the one hope of your calling, one Lord, one faith, one baptism, one God and Father of all, who is above all and through all and in all" (*Eph*. 4: 4-5). In summary, the decision of the synod of Jerusalem had a great impact on Paul's teaching and mission, and still today ensures the unity and equality of all believers in Christ, despite national, ethnic, racial and socio-cultural differences.

7. The Synod of Jerusalem as the Paradigm of Synodality

Although the terms synod and council did not exist at that time, all the constitutive elements of a true synod can be seen in the Jerusalem assembly: preliminary discussions with the people of God, synodal assembly of apostles and elders, discussion and decision on the question of the observance of the Mosaic law by gentile Christians, proclamation of the decision to the people of God in Jerusalem and its acceptance, and official synodal letter communicating the decision to the other local Churches and its reception. All synodal activities, especially in the Eastern Churches, are based on the example of the first synod of the apostles in Jerusalem and have developed in this perspective. Therefore, the ecclesial tradition of synodality presents itself as the continuation and extension of the apostolic tradition[22]. Thus, synodality as the

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[22] Cf. J. Hajjar, "The Synod in the Eastern Church", in *Concilium* 8 (1965) 30; L. Stan, "Sinodalità" (trad. italiana da rumeno, da Mirca Client), in *Oriente Cristiano* 2 (1970) 87-88; C. J. Hefele, also traces the origin of the synods back to the synod of Apostles, cf. *Histoire des conciles,* Tome I-1, Paris 1907, 2 and 125-126; J. A. Fischer, "Die ersten Synoden", 27-33; "Das sogenannte Apostelkonzil", in G. Schwaiger (ed.), *Konzil und Papst: Historische Beiträge zur Frage der höchsten Gewalt in der Kirche*, München-Paderborn-Wien 1975, 1-15; H. Jedin, *Ecumenical Councils of the Catholic Church*: *An Historical Outline*, New York 1960, 13; W. Beinert, "Konziliarität der Kirche: Ein Beitrag zur ökumenischen

organizational and governing form of the Church, is based on the teaching of Christ and on the apostolic praxis which represents the authentic interpretation of that teaching and its application in the first Christian community.

According to the Orthodox theologian Liviu Stan, the Jerusalem assembly is the first example of the application of the synodal principle and the synodal form of organization and governance of the Church. This indeed represents an authentic interpretation of the Lord's teaching on the governance of the Church, beyond all discussions and doubts, as an authentic ministry, through a common consensus or understanding of all, namely the synodal form, and not through the domination, imposition or command of one or some over others. For this reason, the Jerusalem assembly constitutes the first norm or imperative to practise the synodal form of church organization and governance[23].

Jean-Marie Roger Tillard highlights: "The meeting in Jerusalem, considered by itself, is without any doubt the most revealing scriptural episode of apostolic planning and of what we today call the "collegial" quality of major decisions […]. When it is a question of the identity of the Christian community, of what touches the roots of the faith, no one is free to make decisions about these things as he pleases; it must be done with recourse to the unanimity of the apostolic witness […][24]. The International Theological Commission confirms: "By all listening to the Holy Spirit through the witness given of God's action and by each giving his own judgment, initially divergent opinions move towards the consensus and unanimity (όμοθυμαδόν: *cf.*15, 25) that are the fruit of communal discernment that serves the evangelising mission of the Church"[25].

Epistemologie", in *Catholica* 33 (1979) 97-98; D. Savramis, "Das Apostelkollegium–Das soziologische Motive seines Ursprungs", in *Konziliarität und Kollegialität*, Innsbruck-Wien-München 1975, 70-86.

[23] Cf. L. Stan, "Sinodalità", 87-88.

[24] J. M. R. Tillard, *Church of Churches: The Ecclesiology of Communion*, 199.

[25] International Theological Commission, *Synodality in the Life and Mission of the Church*, no. 21.

Indeed, from the example of the synod of Jerusalem it is clear that the solution of problems on the basis of common consensus and mutual agreement is the most acceptable way of proceeding, because it expresses the profound communion and collegiality of the bishops who, through the action of the Holy Spirit, share in one and the same supreme priesthood of Christ. Consensus, however, cannot be brought about by cheap compromises that contradict Sacred Scripture, apostolic tradition, patristic teaching, the official Magisterium, as well as authentic liturgical and canonical traditions. The conciliar history of the Church in East and West demonstrates that when consensus cannot be reached, decisions can be made on the basis of majority or qualified majority votes, and that these will also be equally valid.

The Lucan narrative of the Jerusalem synod also provides an exemplary description of problem solving in the Jerusalem Church and an excellent model for collegial action. It also provides a model for the interaction of the Church in its various actualizations: the central mother Church in Jerusalem and the local Church in Antioch[26]. Although Paul was an apostle of Jesus Christ, from whom he received his commission and ministry to evangelize the Gentiles (cf. *Acts* 9: 15; 22: 21, 26: 16-17; 1 Cor. 15: 19; 2 *Cor*. 11: 5, 38; *Gal*. 1: 12, 16), he did not arbitrarily decide to solve the problem about the observance of Mosaic law, but went to Jerusalem to consult the other apostles and elders and to obtain an authentic collegial decision that was valid for the entire Church. This is still the most appropriate method today to regulate the relations between the central mother Church and the local Churches, especially to solve problems of evangelization and pastoral care.

In the synod of Jerusalem, Peter had a special position as head of the apostolic college, but he did not impose his will or make the decision alone; the apostles, the elders and the brethren all had their part to play[27]. On Peter's attitude at the Synod of Jerusalem, Jean-Marie Roger Tillard writes: "Peter intervenes, his voice carries

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[26] R. Kress, "The Church as Communio: Trinity and Incarnation as the Foundation of Ecclesiology", in *The Jurist* 36 (1976) 145.

[27] Cf. R. E. Brown, K. P. Donfried and J. Reumen, *Peter in the New Testament*, London 1974, 49-56.

weight (*Acts* 15: 7, 12, 14). He tries to bring about unanimity (*homothynadon*, 15, 23). But he does not impose his will and he does not take the decision alone; James, 'the apostles, the elders and the brethren' (15, 23) each had their part to play. James had a particularly large part. Peter does not have to create unity – that comes from the Spirit of the Lord – but to keep the community in koinonia […]"[28]. First among the apostles, Peter provided strong and persuasive leadership and direction by expressing his authoritative opinion on the observance of the Mosaic law, but Paul, Barnabas, and James were also free to express their opinions so that a unanimous collegial decision could be made for the common good of the Church that is still valid today. Freedom of thought and expression, without intimidation and threats of negative consequences, is essential for authentic synodal functioning at every level of the Church.

Conclusion

The *Acts of the Apostles* is a common biblical heritage of all Christianity, embodied in various forms: universal Catholic Church, Latin Church, Orthodox Churches, Eastern Catholic Churches, and ecclesial communities that emerged from the Protestant Reformation. Therefore, the principle of synodality enshrined in the *Acts of the Apostles* also applies to all Churches and ecclesial communities. According to the consciousness of the early Church and to the apostolic tradition, "assemblies" or synods were the means of resolving doctrinal and disciplinary disputes that arose in Christian communities and of maintaining the unity and harmony of the Church based on consensus and concord. Important decisions about the expansion of the Church in the apostolic period were made by the assembly of "apostles and elders". Even though the assembly in Jerusalem was not a synod in the strict modern juridical sense, it was a clear indication of the collegial life of the Church already in the apostolic period and a precursor of all conciliar activities in the Church.

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[28] J. M. R. Tillard, *L'évêque de Rome*, Paris 1984, 158; *The Bishop of Rome*, London 1983, 125.

Chapter Two

PRIMACY AND SYNODALITY ACCORDING TO THE COMMON TRADITION OF THE CHURCH IN THE FIRST MILLENNIUM

Introduction

Primacy and synodality are two institutions that are closely related and coexist for the smooth governance of the Church. When primacy is excessively strengthened and consolidated and gradually takes over all power, as in an absolute monarchy, synodality steadily diminishes and even disappears. On the other hand, the functioning of synods is impossible without primates to convene, direct, and lead the synodal assemblies at various levels. Therefore, to ensure the smooth governance of the Church, the primate and synod should work together in a balanced and harmonious manner. This chapter is an attempt to evaluate the origin, development, and functioning of primacy and synodality at different levels according to the common tradition of the Church in the first millennium, based mainly on the doctrine and canons of the first seven ecumenical councils.

1. Synods in the Early Church

The origin and development of synods and councils can be traced back to apostolic praxis as described in the *Acts of the Apostles*. Many see the application of the principle of synodality, especially in connection with the election of Matthias (*Acts* 1:15-26), the election of seven deacons (*Acts* 6:1-6) and the synod of Jerusalem (*Acts* 15), since these decisions were made "in agreement with the whole Church" or jointly[1]. Although the terms synod and council did not exist at that time, all the constitutive elements of a

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[1] Cf. P. Trembelas, *Dogmatique de l'Eglise orthodoxe*, vol. 2, 398-399: P. Duprey, "The Synodical Structure of the Church in Eastern Theology", 152-153; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 227-228; J. Forget, "Conciles", in *Dictionnaire de Théologie Catholique*, Tome III, 637.

true synod can be traced in the Jerusalem synod: preliminary discussions with the people of God, synodal assembly of apostles and elders, discussion and decision on the question of the observance of the Mosaic Law by the gentile Christians, the proclamation of the decision to the people of God in Jerusalem and its acceptance, and official synodal letter communicating the decision to the other local Churches and their acceptance of it[2].

In the early Church, bishops were always aware that together they formed a community or college, just as the apostolic college was. Because of this collegial consciousness, collegial structures and synodal convocations developed spontaneously in the early Church, following the example of the apostolic synod of Jerusalem, under the providence of God, especially when the Church was faced with serious problems that could not be solved by a single bishop. Thus, the bishops of a region gathered, usually under the leadership of the bishop of the metropolitan city, solved the problems in a collegial manner and promulgated norms for common action.

The first synods were held between 170 and 180 against the heresy of Montanism in Asia Minor. Eusebius speaks of assemblies in many places throughout Asia that examined the new doctrines of the Montanists, declared them null and void, rejected them as heresy, condemned these persons, and expelled them from communion with the Church[3]. Eusebius also speaks of synods in many Churches and the exchange of synodal letters between bishops on the question of the celebration of Easter:

> Hence there were synods and convocations of the bishops on this question; and all unanimously drew up an ecclesiastical decree, which they communicated to all Churches in all places, that the mystery of our Lord's resurrection should be celebrated on no other day than the Lord's day; and that on this day alone we should observe the close of paschal fasts. There is an epistle extant even now, of those who were assembled at the time; among whom presided Theophilus, bishop of the Church in Cesarea, and Narcissus, bishop of Jerusalem. There is

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[2] For details, see Chapter One.

[3] Eusebius Pamphilus, *Historia Ecclesiastica,* Book V, chapter 16; *Sources Chrétiennes* 41, 46-52; English translation in C. F. Cruse, *Eusebius' Ecclesiastical History,* London 1851, 183.

> also another epistle extant on the same question, bearing the name of Victor. An epistle, also of the bishops in Pontus, among whom Palmas, as the most ancient, presided; also of the Churches of Gaul, over whom Iranaeus presided. Moreover, one from those in Osrhoene, and the cities there. And a particular epistle from Bacchyllus, bishop of the Corinthians; and epistles of many others, who, advancing one and the same doctrine, also passed the same vote. And this, their unanimous determination, was the one already mentioned[4].

From this description, it is evident that in connection with the Easter question, there were synods and assemblies in Italy under Pope Victor of Rome, in Palestine under Theophilus of Cesarea and Narcissus of Jerusalem, in Pontus under Palmas, in Gaul under Irenaeus, in Corinth under Bacchylus and in many other places (AD 189-199).

Orthodox Metropolitan John Zizioulas, relying on the *Ecclesiastical History* of Eusebius, points out the nature and structure of the early councils and synods:

> (a) These first councils were strictly regional, usually covering an area of an *eparchia* of the Roman Empire, (b) the chairmanship of the council was in some places given to the bishop of the metropolitan city, but in other places (e.g., in Pontus) to the oldest of the bishops, (c) the importance was attached to the great number of participants as well as to the achievement of unanimity in the decisions taken by the council, and (d) the motive as well as the ultimate purpose of convocation of the council was related to the eucharistic communion. It should be also noted that conciliar activity was accompanied by a rich exchange of letters between bishops[5].

Several synods took place in the third and fourth centuries. Around the year 230, there were two synods against Origen, and in the middle of the century, Roman and African synods on the question of *lapsi* and Novasianism. There were also synods in Iconium (230-235) and in Antioch in 264 and 265. In the first half

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[4] Eusebius Pamphilus, *Historia Ecclesiastica*, Book V, chapter 23; *Sources Chrétiennes* 41, 66-67; English translation in C. F. Cruse, *Eusebius' Ecclesiastical History*, 195.

[5] J. D. Zizioulas, "The Development of Conciliar Structures to the Time of First Ecumenical Council", 42.

of the fourth century synods in Elvira (306), Rome (313), Arles (314), Ancyra (314), Neocaesaria (between 314 and 325), and Antioch (324) dealt with the questions of *lapsi* and Donatism[6].

In short, synods became the way of life of the Church, both in the East and in the West in the second century. Even before the first council of Nicaea, local Churches were grouped into provinces and held synods. The bishop of the metropolitan city, who was usually considered the head of the province, convened the synods, presided over them, and established relations with the bishops of the other metropolitan cities[7]. Since the beginnings of Christianity, synods were understood as an expression of communion and collegiality among the bishops and as a service to the unity of the Church, during which questions of faith and discipline were resolved.

In the course of time, in addition to provincial or metropolitan synods, regional or national synods, general synods, patriarchal synods, particular councils, and ecumenical councils came into being. The functioning of all these synods and councils is regulated by important general synods and ecumenical councils of the first millennium. These synods and councils had doctrinal, legislative, judicial and elective functions (election of bishops, metropolitans

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[6] For the origin and development of synodal structure and for a short account of different synods before the Council of Nicaea, cf. C. J. Hefele, *Histoire des conciles,* Tome I-1, 125-385; H. Grotz, *Die Hauptkirchen des Ostens von den Anfängen bis zum Konzil von Nikaia 325* (*OCA* 169), Rome 1964, 133-162; W. De Vries, "Die kollegiale Struktur der Kirche in den ersten Jahrhunderten", in *Una Sancta* 19 (1964) 299-304: "Primat und Kollegialität auf den Synoden vor Nikaia", in *Konziliarität und Kollegialität*, Innsbruck-Wien-München 1975, 155-156; E. Lanne, "Églises locales et patriarcats à l'époque des grands conciles", in *Irénikon* 34 (1961) 293-300; J. Hajjar, "La collegialità episcopale nella tradizione orientale", in G. Barauna, *La Chiesa del Vaticano II*, Firenze 1965, 812-817; G. Dejaifve, "La collegialità episcopale nella tradizione latina", in G. Barauna, *La Chiesa del Vaticano II*, Firenze 1965, 834-836; J. A. Fischer, "Die ersten Synoden", 27-60; H. Marot, "Conciles anténicéens et conciles œcuméniques", in *Le concile et les conciles*, Chevetogne 1960, 19-43; J. D. Zizioulas, "The Development of Conciliar Structures", 34-48.

[7] Cf. C. Vogel, "Unité de l'Église et pluralité des formes historiques d'organisation ecclésiastique du IIIe au Ve siècle" (*Unam Sanctam* 39), Paris 1962, 601-616; E. Lanne, "Églises locales et patriarcats", 294-295; H. M. Biedermann, "Die Synodalität: Prinzip der Verfassung und Leitung der Orthodoxen Kirchen und Kirche", in L. Hein (ed.), *Die Einheit der Kirche*, Wiesbaden 1977, 298.

and patriarchs) within the boundaries of their Churches or territories. Since I have dealt with the origin, development, and competence of these synods and councils in other works[8], this chapter will deal only with the principle of primacy in relation to synodality, also to avoid repetition.

To understand the ancient canons dealing with primacy and synodality in the first millennium, one must understand the political and administrative situation of the Roman Empire. In the third century, the distinction between the western and eastern halves of the Roman Empire was solidified under Emperor Diocletian (284-305)[9], who reorganized the eparchies and established 'dioceses' for administrative reasons. The Church in the western part of the Empire came to be known as the Western or Latin Church, whose main centre was in Rome and whose territory included the entire Western Roman Empire, while the various Churches that developed in the eastern part of the Roman Empire were called Eastern Churches. The ecclesiastical administrative divisions corresponded to those of the Roman Empire as established by Emperor Diocletian. Thus, a parish denoted a local church headed by a bishop, an eparchy was comparable to a province, while a diocese indicated large administrative districts encompassing several provinces and, in some cases, even more than one nation[10].

2. Apostolic Canon Thirty-Four as the Basic Principle Regulating Primacy and Synodality

The first and fundamental affirmation of the conciliar or synodal principle is found in the thirty-fourth canon of the collection, known as the "Apostolic Canons" or Canons of the Holy Apostles. The collection was first found as the last chapter of the eighth book of the *Apostolic Constitutions*. Although the canons that

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[8] See especially P. Pallath, *Local Episcopal Bodies in East and West*, 15-90.

[9] Cf. T. D. Barnes, *Constantine and Eusebius*, Harvard 2006, 6-7; *The Cambridge History of Christianity: Origins to Constantine*, edited by Margaret M. Mitchell and Frances M. Young, Cambridge 2006, 518.

[10] Cf. D. Salachas, *Il Diritto canonico delle Chiese orientali nel primo millennio*, Roma-Bologna 1997, 54 & 68.

make up the collection date from different times, most of them are older than 300 AD. Of course, these canons are not of direct apostolic origin, but they are nevertheless called "apostolic" because they were formulated in accordance with the apostolic tradition, were maintained and written down by persons who were temporally close to the apostles, and were guardians and continuators of the apostolic tradition not only in matters of faith but also in matters of ecclesiastical discipline and law[11]. Although the apostolic canons belong to the apocryphal writings of that time, they practically formed the canon law of the Church before the first ecumenical council[12].

The Western Church generally regarded the collection of Apostolic Canons as apocryphal, although many of these canons, translated into Latin by Dionysius Exiguus around 500 AD, circulated in the West and were gradually accepted[13]. Obviously, the apostolic canon thirty-four was known in the West[14]. The Eastern Churches never hesitated to recognize the ancient tradition of the Apostolic Canons. The authority of the eighty-five canons was

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[11] *Les canons des synodes particuliers (*Pontificia Commissione per la Redazione del Codice di Diritto Canonico Orientale, *Fonti*, Fasc. IX, T. I, 2), P. P. Joannou (ed.), Grottaferrata 1962, 1-2; C. J. Héfélé, *Histoire des conciles*, Tome I, 609-615; P. Schaff, *History of the Christian Church, Volume II: Ante-Nicene Christianity*, A.D. 100-325, Grand Rapids 1885, 120-121; N. Milash, *Das Kirchenrecht der Morgenländischen Kirche: Nach den allgemeinen Kirchenrechtsquellen und nach den in den autokephalien Kirchen geltenden Spezialgesetzen*, Mostar 1905, 159; D. Salachas, *Il Diritto canonico delle Chiese orientali nel primo millennio*, 16.

[12] Cf. D. Salachas, *Il Diritto canonico delle Chiese orientali nel primo millennio*, 16-17; J. Meyendorff, *Byzantine Theology: Historical Trends and Doctrinal Themes,* New York 1974, 80.

[13] Cf. *Les canons des synodes particuliers*, 2; *The Seven Ecumenical Councils of the Undivided Church* (*A Select Library of Nicene and Post-Nicene Fathers of the Christian Church*, Second Series, Volume XIV), edited by H. R. Percival, Grand Rapids 1988, 592-593; P. Duprey, "The Synodical Structure", 153; J. Gaudemet, *Les sources du droit de l'Église en occident du IIe au VIIe siécle*, Cerf 1985, 24-25; C. Gallagher", Sacri Canones nel Decretum di Graziano", in *Ius in vita et missione Ecclesiae*, Citta del Vaticano 1994, 766.

[14] *Decretum Gratiani*, pars II, causa IX, questio III, C.V., in *Corpus Iuris Canonici* I (editio secunda, A. Friedberg et A. L. Richteri, edd.) Graz 1959, col. 607.

finalized at the council of Trullo (Quinisext AD 692) and in its enumeration of accepted canons, these canons predating those of the ecumenical council of Nicaea. The second canon of Trullo begins as follows: "It is the most noble and serious resolve of this holy council that the eighty-five canons which have come down to us under the name of the holy and glorious Apostles, received and confirmed by the holy and blessed Fathers before us, should henceforth remain firm and secure, for the healing of souls and curing of passions […]"[15]. Therefore, the Apostolic Canons are recognized on an equal footing with the canons of the ecumenical councils in the East, especially by the Byzantine Churches[16].

Despite the various questions regarding the collection in which apostolic canon 34 was inserted, it can be stated that the canon outlines a very precise norm of action for all those who bear responsibility for the local Churches and indicates the consequences of a spiritual order resulting from the observance and application of this canon[17]. Still today it is regarded "as a model for the interdependency between the primatial and synodal dimensions of the Church"[18]. Canon 34 reads as follows:

> The bishops of each nation (province or region) must recognize the one who is first (*protos*) among them and consider him as their head and not do anything important without his consent; each bishop may only do what concerns his own parish (= today eparchy or diocese) and its dependent territories, but the first cannot do anything without

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[15] Trullo, canon 2: Greek, Latin and English text in G. Nedungatt and M. Featherstone (eds.), *The Council in Trullo Revisited* (*Kanonika* 6), Roma 1995, 64-65; Greek, Latin and French versions in *Les canons des conciles œcuméniques* (Pontificia Commissione per la Redazione del Codice di Diritto Canonico Orientale, Fonti. Fasc. IX, T I, 1), P. P. Joannou (ed.), Grottaferrata 1962, 120-121; Latin text also in Mansi 11, 939.

[16] The Council in Trullo was also accepted as the basis for the Eastern Code, together with the seven ecumenical councils. Pope John Paul II has mentioned the Council in Trullo in *Sacri canones*, by which he promulgated the Code. See *AAS* 82 (1990) 1034.

[17] Cf. D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 230.

[18] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 72 (no. 99).

> the consent of all. For in this way concord (harmony) will prevail, and God will be glorified through Christ in the Holy Spirit[19].

In a few simple words, this canon affirms the conciliar or synodal power in the Church as a whole, and in particular defines the rights, obligations, and mutual relations of the holders of this power, namely the bishops within the local Church[20].

2.1. Position of the Head or *Protos*

The canon recognizes the need for a head or *protos* in each nation or province to coordinate episcopal action. According to the canon, it is necessary for the bishops of each province or nation to recognize the one who is first (*protos*) among them, to be considered their head, namely, the metropolitan[21]. They should not do "anything important without his consent", that is, initiatives and decisions that affect the entire province or nation[22]. Therefore, the norm is that the bishops are to do nothing pertaining to the common affairs of the province or nation without the consent of the metropolitan; likewise, in matters pertaining to the whole province, the metropolitan is to decide nothing on his own without the consensus of the bishops of the province. In other words, true co-responsibility and a just balance between the bishops and the metropolitan are realized in the synodal system of a local Church.

The convocation of the synod and the passing of resolutions in the presence and with the consent of the *protos* – the bishops must

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[19] This English translation is mainly based on *The Seven Ecumenical Councils of the Undivided Church*, 596; this canon can be found also in Mansi 1, 35; original Greek text with Latin and French translations can be found *Les canons des synodes particuliers,* 24.

[20] R. Poptodorov, "Protos and Conciliarity", in *Kanon* 9 (1989) 212.

[21] Balsamon in his commentary indicates that the "head" is the consecrating bishop. Cf. Balsamon, Patrologia *PG* 137, col. 106. From the canons of other synods it is clear that the consecrating bishop is the metropolitan, the head of the province. See c. 9 of Antioch, c. 4 of Nicaea I, c. 6 of Sardica and cc. 34 and 56 of Carthage.

[22] See the commentary of Zonarus in *PG* 137, col. 107; E. Lanne, "Un esempio classico: il sinodo come stile di vita nella Chiesa ortodossa d'oriente", in A. Mondadori (ed.), *Crisi del potere nella Chiesa e risveglio comunitario*, Verona 1969, 246.

"not do anything important without his consent" –does not mean that the resolutions of a local synod, passed by majority vote, are subject to the approval or disapproval of the *protos*, but that the subjects of general interest in a metropolitan province, and especially the election of bishops, are deliberated and decided together in the synod, always presided over by the senior bishop of the metropolis. It is not possible for the bishops to convene a synod, hold a discussion, or make a decision without the *protos*, nor for the *protos* to decide or act without the synod on matters that affect the entire province[23].

2.2. Synodal Principle

In all matters that go beyond the immediate territorial jurisdiction of a bishop, the decision should be collegial, so that the one who is the first or the head among the bishops does not act without the others, and the others do not act without him. This is the norm and the criterion for the action of the bishops. The heads of the local Churches, namely the bishops, must meet together to deal with those questions which go beyond the immediate interest of a local ecclesial community, namely the diocese. Therefore, any question of general interest, such as discipline, doctrine, or liturgy, must be discussed and decided in the assembly of bishops. None of the bishops, not even the head or *protos*, can decide alone on questions that concern the whole province[24].

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[23] P. Rodopoulos, "Ecclesiological Review of the Thirty-Fourth Apostolic Canon", in *Kanon* 4 (1980) 94; cf. also R. Poptodorov, "Protos and Conciliarity", 212-213.

[24] Cf. The commentary of Balsamon, *PG* 137, col. 106-107; P. Duprey, "The Synodical Structure", 154; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 230; "L'istituzione patriarcale e sinodale nelle Chiese orientali cattoliche", in *Euntes Docete* 43 (1990) 247; J. D. Zizioulas, *Being as Communion: Studies in the Personhood and the Church*, London 1985, 135-136; D. Papandreou, "Die Stellung des Ersten in der orthodoxen Kirche", in *Kanon* 9 (1989) 13-14; A. Schmemann, "La notion de primauté dans l'ecclésiologie orthodoxe", in *La primauté de Pierre dans l'Église orthodoxe*, Neuchâtel 1960, 138-139; L. Waldmüller, "Das Konzil im Verständnis der Ostkirche", in W. Brandmüller (ed.), *Synodale Strukturen der Kirche*, Donauwörth 1977, 142-143; R. Metz, "L'institution synodale d'après les canones locaux", in *Kanon* 11 (1974) 158.

What concerns all must be decided collegially by all. Thus, "by the provisions of the thirty-fourth apostolic canon, a balance is established in the relations of the bishops with the metropolitan; mutual respect for them is maintained, and at the same time the co-responsibility of all the bishops for the administration and pastoral care of the whole Church is emphasized"[25]. Only on the basis of common consent, unanimity, and unity of action of the regional bishops, namely the synod of bishops together with the *protos* and vice versa the regional *protos* together with the synod of bishops, can the supreme and truly conciliar power be exercised[26].

2.3. Internal Autonomy of Each Eparchy or Diocese

Canon thirty-four does not impede the autonomy of each bishop in his own territory: "each bishop may only do what concerns his own parish (= today eparchy or diocese) and its dependent territories". Thus, each bishop is free to attend to the affairs of his own eparchy or diocese and the territories belonging to it. He can decide, without the consent of the metropolitan and the other bishops, on all matters that concern his diocese alone. Thus, matters concerning a local Church or eparchy fall within the competence of each bishop, for which he is dependent neither on the synod nor on the head: the apostolic canon guarantees above all the internal autonomy of the diocese or eparchy in its internal affairs; its external action, on the other hand, is the responsibility of the synod. The relationship of the head of the synod to the other members is defined in canon thirty-four as one of interdependence, so that the balance between the local Church and the supra-episcopal structure is maintained. This metropolitan system protects the Church from a false pyramidal type of hierarchical structure. The idea of the synodal head is not aimed at subjecting the local Church to a supra-episcopal structure, but, on the contrary, prevents such a pretence or claim. He is not the one who stands at the top of a pyramid, but the bishop of a Church and must serve the communion of local

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[25] P. Rodopoulos, "Ecclesiological Review of the Thirty-Fourth Apostolic Canon", 93.

[26] R. Poptodorov, "Protos and Conciliarity", 212.

Churches[27]. In short, the synod or the metropolitan should not be empowered to intervene in the internal affairs of a diocese unless those affairs affect the life of the other local Churches in a substantial and direct way[28].

2.4. Glorification of God as the Ultimate End of Synodal Action

The conclusion of the canon reads: "For in this way concord (harmony) will prevail, and God will be glorified through Christ in the Holy Spirit". There is a profound relationship between the collegial action of bishops in harmony and the glorification of God. The synodal life of the Church is therefore a witness to the Holy Trinity, which is the perfect communion. From the principle of synodal collegial action comes a consequence of the spiritual order: the communal manner of the bishops' action in harmony reflects the communion and love that exist in the Most Holy Trinity and becomes an example for the clergy and the Christian faithful; by the same fact, synodal action is an act of glorification of the Trinity[29]. Therefore, synods or councils cannot be considered primarily as means of power, domination, and governance, but are expressions of the profound communion or *koinonia* of the bishops of a Church, and thus an act of glorifying God. This canon reminds us of the fundamental principle upheld throughout the Church, namely, that organizational structures and canonical institutions are at the service of communion and their purpose is nothing other than the realization

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[27] Cf. P. Rodopoulos, "Ecclesiological Review of the Thirty-Fourth Apostolic Canon", 95-98; D. Papandreou, "Die Stellung des Ersten", 13-14; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 232.

[28] Cf. J. D. Zizioulas, "The Institution of Episcopal Conferences: An Orthodox Perspective", in *The Jurist* 48 (1988) 378.

[29] Cf. The commentary of Zonarus in *PG* 137, col. 107; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 230; "L'istituzione patriarcale e sinodale", 247-248; E. Lanne, "Un esempio classico: il sinodo come stile di vita", 247; R. Metz, "L'institution synodale d'après les canones locaux", 158.

of the Church's highest end, namely, the *salus animarum* and the glorification of God[30].

The synodal action as an expression of love and communion for the glory of God is also based on the teaching of Christ. After washing the disciples' feet, Jesus gave the new commandment of love, which is the distinguishing mark of his disciples: "I give you a new commandment, that you love one another. Just as I have loved you, you also should love one another. By this everyone will know that you are my disciples, if you have love for one another" (*Jn* 13: 34-35). After declaring that the disciples are "the light of the world", following the example of a lighted lamp on a lampstand that gives light to all in the house (*Mt* 5: 14-15) Christ stated: "In the same way, let your light shine before others, so that they may see your good works and give glory to your Father in heaven" (*Mt* 5: 16).

In summary, the apostolic canon thirty-four is the fundamental basis and cornerstone of the synodal governance and organization of the Eastern Churches in particular and has greatly influenced the Eastern theology of the Church. This canon enjoys outstanding importance, especially in Orthodox thought, and serves as the basis for the principle of conciliarity or synodality and remains one of the fundamental norms of ecclesial life to this day[31].

When the apostolic canon thirty-four was formulated, there was only the metropolitan level of ecclesiastical organization, and therefore the canon considered only synodality and primacy at that level and regulated the relations between metropolitan, bishops and

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[30] Cf. P. Pallath, "Liturgy Makes the Church: towards a Catholic Sacramental Ecclesiology", in P. Pallath (ed.), *Church and Its Most Basic Element*, Rome 1995, 89.

[31] Cf. E. Lanne, "Un esempio classico: il sinodo come stile di vita", 245-247; S. Harkianakis, "Über die gegenwartige Situation der orthodoxen Kirchen", in *Kyrios* 6 (1966) 229-230; J. Meyendorff, *Orthodoxie et catholicité,* Paris 1965, 149; A. Schmemann, "La notion de primauté", 138-139; J. D., Zizioulas, *Being as Communion*, 135; P. L'Huillier, "Collégialité et primauté, Réflexions d'un orthodoxe sur les problèmes historiques", in *La collégialité épiscopale* (*Unam Sanctam* 52), Paris 1965, 331-334; Y. Congar, "Autonomie et pouvoir central dans l'Église vus par la théologie catholique", in *Kanon* 4 (1980) 140-141; R. Poptodorov, "Protos and Conciliarity", 212-213; P. Rodopoulos, "Ecclesiological Review of the Thirty-Fourth Apostolic Canon", 92-99.

provincial synod. However, the principles established by the canon also apply to primacy and synodality at all levels, as it regulates the relationship between diocesan or eparchial bishops and collegial structures, primacy and synodality. It strikes a balance between the autonomy of diocesan bishops within the diocese and the authority of councils or synods for the common good of the whole Church at the provincial, regional, or national level[32].

3. Primacy according to the Common Tradition of the Church

Primacy has always been a fundamental institutional concept of authority in the organisation and function of the body of the Church. In apostolic times this authority was exercised by the apostles, and in post-apostolic times by their disciples. Then, gradually, certain sees became important because of their apostolic origin, evangelization of other nations as mother Churches, favourable geographical location, political and cultural importance, and flourishing ecclesiastical life, and the bishops of these sees exercised the primatial function. This led to the emergence of ecclesiastical structures such as the metropolitan system and, later, the patriarchates[33].

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[32] The canon provides a valid criterion for synodal action that could even resolve the much-debated question in the Latin Church about the autonomy of diocesan bishops and the authority of the episcopal conference. Thus, the principle formulated in this canon applies to the universal Catholic Church, which is a communion of Churches.

[33] Cf. V. Phidas, "Primus inter Pares", in *Kanon* 9 (1989) 181-182; R. Poptodorov, "Protos and Conciliarity", 207-214; J. Meyendorff, "Ecclesiastical Organizations in the History of Orthodoxy", in *SVTQR* 4 (1960) 2-8; W. De Vries, "Entstehung und Entwicklung der autonomen Ostkirchen im ersten Jahrtausend", in *Kanon* 4 (1980) 45-46; G. Greshake, "Die Stellung des Protos in der sicht der Römischkatholischen dogmatischen Theologie", in *Kanon* 9 (1989) 23-24; C. Vogel, "Unité de l'Église et pluralité des formes historiques d'organisation", 618. According to F. Dvornik the principle of adaptation to the political division of the empire played the most important role in the emergence of the great sees in the East. Cf. *The Idea of Apostolicity in Byzantium and the Legend of the Apostle Andrew,* Cabridge-Massachusetts 1958, 47-50; cf. also, H. Grotz, *Die Hauptkirchen des Ostens*, 35-82; J. Hoeck, *Primum Regnum Dei, Die Patriarchalstruktur der Kirche als Angelpunkt der Wiedervereinigung,* München 1975, 44-45.

The synodal institution is indissolubly bound to the primatial function of the Church, and primatial authority is inseparable from the synod. An examination of the canons of the ecumenical councils shows, in addition to the affirmation of the synodal principle, the existence of primatial power at various levels, namely the metropolitans at the level of the provinces, the patriarchs at the level of the patriarchates, and the Bishop of Rome in the universal Church.

3.1. Primacy at the Provincial Level: Metropolitan

When the civil administrative division in the Roman Empire also became the criterion for the ecclesiastical administrative unit, the bishop of the metropolis, who became the head of the entire province, began to be called metropolitan[34]. Many canons dealing with the synodal system also emphasize the importance and role of the metropolitan for the proper functioning of the synod. The sixth canon of the first ecumenical council of Nicaea (325) determines the role of the metropolitan in the election of bishops in the province:

> […] In general, the following principle is evident: if anyone is made bishop without the consent of the metropolitan, this great synod determines that such a one shall not be a bishop. If however two or three by reason of personal rivalry dissent from the common vote of all, provided it is reasonable and in accordance with the church's canon, the vote of the majority shall prevail[35].

The canon recognizes the special role of the metropolitan and the synodal participation of the other bishops of the same province in the election of bishops. As we have already seen, the thirty-fourth

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[34] Cf. C. J. Hefele, *Histoire des conciles*, I-1, 540-542; J. Meyendorff, "Ecclesiastical Organization", 7; *Orthodoxie et catholicité*, 28-29; P. L'Huillier, "Collégialité et primauté", 332-333; V. Parlato, *L'ufficio patriarcale nelle Chiese orientali dal IV al X secolo*, Padova 1969, 10; V. Phidas, "Primus Inter Pares", 181-182; D. Papandreou, "Die Stellung des Ersten" 13; J. Hajjar, "La collegialità episcopale nella tradizione orientale", 819; B. Kurtscheid, *Historia iuris canonici*, *Historia institutorum*, Romae 1951, 41-42; F. Dvornik, *The Idea of Apostolicity in Byzantium*, 5-6; H. Grotz, *Die Hauptkirchen des Ostens*, 89.

[35] Nicaea I, canon 6: *Decrees of the Ecumenical Councils*, N. P. Tanner (ed.), vol. I, London 1990, 9; *Conciliorum oecumenicorum decreta*, a cura di Giuseppe Alberigo e altri (edizione bilingue), Bologna 2002, 8-9; *Les canons des conciles œcuméniques*, 28-29.

apostolic canon established the basic principles regarding the role of the first or the head in his own territory and collegial action. The ninth canon of the synod of Antioch (341) substantially reiterates the thirty-fourth apostolic canon and states more clearly the conciliar principle and the primatial role of the metropolitan[36]. The canon reads as follows:

> It behooves the bishops of every province to acknowledge the bishop who presides in the metropolis, and who has to take thought for the whole province, because all men of business come together from every quarter to the metropolis. Wherefore it is decreed that he has precedence in rank, and that the other bishops do nothing extraordinary without him (according to the ancient canon which prevailed from the times of our Fathers), or such things only as pertain to their own particular parishes and the districts subject to them. For each bishop has authority over his own parish, both to manage it with the piety which is incumbent on everyone, and to make provision for the whole district which is dependent on his city; to ordain presbyters and deacons and to settle everything with judgment. But let him undertake nothing further without the bishop of the metropolis; neither the latter without the consent of others[37].

The canon specifies that the first or head referred to in the apostolic canon is the bishop who presides in the metropolis, namely the metropolitan, who precedes in rank. However, it clearly refers to each bishop's liturgical, administrative, and judicial autonomy in his own diocese. Later ecumenical councils, such as Constantinople I (c. 2), Chalcedon (c. 19), and Nicaea II (cc. 3 and 6), as well as the council of Trullo (c. 39), confirmed the special role and position of the metropolitan in the province.

As stated above, since the metropolitan is the first bishop and head of the province, he has a special role in the synodal election and consecration of the bishops of his province. It is his right to

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[36] The synod was convoked by Roman Emperor Constantius II (337-361) and was most probably presided over by Bishop Flaccillus of Antioch. In the Synod 97 Eastern bishops participated; most of them belonged to the patriarchate of Antioch. Cf. My article, "Eastern Canon Law throughout the Centuries", in P. Pallath (ed.), *Code of Eastern Canon Law*, Kottayam 2021, 30-31.

[37] *The Seven Ecumenical Councils of the Undivided Church*, 112; Mansi 2, 1311; *Les canons des synodes particuliers*, 110-111.

confirm the procedure (Nicaea I c.4: Nicaea II c.3). It is not possible to appoint someone as bishop without the consent of the metropolitan (Nicaea I, c. 6). According to the synod of Antioch, a bishop should not be consecrated without a synod and the presence of the metropolitan of the province. The metropolitan must convoke the synod of election by an official letter (Antioch c.19). As we shall see below, even the council of Chalcedon, which reserved the right to consecrate the metropolitans of Pontus, Asia, and Thrace to the patriarch of Constantinople, confirmed that "each metropolitan of the aforesaid dioceses along with the bishops of the province ordain the bishops of the province" (c. 28)[38]. In short, for the election of a bishop in a province, the metropolitan was obliged to convene all the bishops of the province, preside over the synod and oversee the faithful observance of the traditions and canonical discipline of the Church, and finally, together with other bishops of the province, consecrate the newly elected bishop[39].

As with the elective synods, the metropolitan obviously played an important role in convening the general synods of the province. The metropolitan convoked the synod, determined the place of its meeting, and saw to its proper functioning in accordance with the tradition and canons of the ecumenical councils[40]. He presided over the synod's proceedings and promulgated its decisions on behalf of all the bishops of the province[41]. The metropolitan's responsibility for convening synods is made very clear in canon 6 of Nicaea II, which prescribes canonical penalties for a metropolitan who fails to

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[38] Chalcedon, canon 28: *Decrees of the Ecumenical Councils*, vol. I, 100; *Conciliorum oecumenicorum decreta,* 100; *Les canons des conciles œcuméniques*, 92-93.

[39] Cf. F. X. Wernz-P. Vidal, *Ius Canonicum II,* Tomus II, *De Personis,* Romae 1928, 548; D. Salachas, "Il principio della struttura sinodale delle Chiese orientali ", 233; E. Eid, *La figure juridique du patriarche,* Rome 1963, 40; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale et ses requêtes" (*Unam Sanctam* 52), Paris 1965, 170; I. Ortiz de Urbina, *Nicée et Consantinople*, Paris 1963, 100.

[40] Cf. Apostolic Canons 37; Nicaea I c. 5; Chalcedon c. 19; council of Antioch c. 20; council in Trullo c. 8; council of Carthage (419) c. 76.

[41] Cf. R. Poptodorov, "Protos and Conciliarity", 210.

convene the synod at least once a year[42]. In short, the metropolitan's leadership undoubtedly maintained agreement, harmony, and unanimity among the bishops of the province[43].

3.2. Primacy at the Supra-Provincial Level: Patriarch

Along with the development of the synodal structure and the metropolitan system, some important sees with supra-metropolitan prerogatives emerged, which later became patriarchates. In addition to all the powers and functions of a metropolitan in relation to his province, the supra-metropolitan or patriarch possessed certain powers over other provinces and metropolitans. He consecrated metropolitans and generally had the right to supervise dogmatic and canonical matters within his patriarchate[44]. In the sixth canon of Nicaea, the first ecumenical council of the Church, the supra-metropolitan prerogatives of Rome, Alexandria and Antioch over certain other provinces were recognised and regulated as follows:

> The ancient custom of Egypt, Libya and Pentapolis shall be maintained, according to which the bishop of Alexandria has authority over all these places, since a similar custom exists with reference to the bishop of Rome. Similarly in Antioch and the other provinces the prerogatives of the churches are to be preserved […][45].

The council officially confirmed an existing hierarchy of power that had probably developed because of the special relationship of these Churches to an apostle, the fame and holiness of one of their bishops, their special status as mother Churches, and the prominent position of their cities in the civil administration of the empire. The council of Nicaea, therefore, did not introduce or create the patriarchal rank,

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[42] Nicaea II, canon 6: *Decrees of the Ecumenical Councils*, vol. I, 133-134; *Conciliorum oecumenicorum decreta,* 144; *Les canones des conciles œcuméniques*, 258-259.

[43] J. Hajjar, "The Synod in the Eastern Church", 31.

[44] T. Kane, *The Jurisdiction of Patriarchs of the Major Sees in Antiquity and in the Middle Ages*, Washington 1949, 40-56.

[45] Nicaea I, canon 6: *Decrees of the Ecumenical Councils*, vol. 1, 8-9; *Conciliorum oecumenicorum decreta,* 8-9; *Les canons des conciles œcuméniques*, 28-29.

but found this rank to be an institution of ancient customary law and authentically recognized and confirmed it as such[46]. The seventh canon of the same council recognized the special position of Jerusalem and conferred on its bishop the dignity that belongs to the metropolitan according to ancient custom and tradition; later Jerusalem would become the fifth patriarchate[47].

The council of Constantinople (381), in its second canon, recognized and confirmed the primacy of the great sees of Alexandria and Antioch, and established that the heads of dioceses (as they existed in the Roman Empire) should not invade the

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[46] Cf. W. De Vries, "The Origin of the Eastern Patriarchates and Their Relationship to the Power of the Pope", in *One in Christ,* vol. 2, no. 1 (1966) 54; *Rom und die Patriarchate des Ostens,* Freiburg-München 1963, 7-8; "La S. Sede ed i patriarcati cattolici d'Oriente", in *OCP* 27 (1961) 314; "Die Entstehung der Patriarchate des Ostens und ihr Verhaltnis zur papstlichen Voligewalt", in *Scholastik* 37 (1962) 344-345; L. Örsy, "The Development of the Concept of 'Protos' in the Ancient Church", in *Kanon* 9 (1989) 86-87; L'Huillier, "Collégialité et primauté", 334-335; V. Parlato, *L'ufficio patriarcale,* 11-12; H. Marot, "The Primacy and Decentralisation of the Early Church", in *Concilium* 1 (1965) 10; "Note sur le pentarchie", in *Irénikon* 32 (1959) 436; V. T. Istavridis, "Prerogatives of the Byzantine Patriarchate in Relation with the Other Oriental Patriarchs", in *I patriarcati orientali nel primo mellennio* (*OCA* 181), Roma 1968, 40; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale", 171; G. Alberigo, *Storia dei concili ecumenici*, Queriniana-Brescia 1990, 38-39; F. Dvornik, *Byzantium and the Roman Primacy*, New York 1966, 32; J. E. Lynch, "The Eastern Churches: Historical Background", in *The Jurist* 51 (1991) 9; T. Kane, *The Jurisdiction of Patriarchs*, 7-8. For the large powers and prerogatives of the see of Alexandria before the council of Nicaea: I. Ortiz de Urbina, *Nicée et Constantinople*, 102; "Diritti del vescovo Alessandrino prima del concilio di Calcedonia", in *I patriarcati orientali nel primo millennio* (*OCA* 181), Roma 1968, 71-85; H. Grotz, *Die Hauptkirchen des Ostens*, 164-170. For the prerogatives of Antioch before the council of Nicaea: L. Laham, "Le patriarcat d'Antioche au premier millénaire", in *I patriarcati orientali nel primo millennio* (*OCA* 181), Roma 1968, 117-121; H. Grotz, *Die Hauptkirchen des Ostens*, 170-188.

[47] Nicaea I, canon 7: *Decrees of the Ecumenical Councils*, vol. 1, 9; *Conciliorum oecumenicorum decreta, 9*; *Les canones des conciles œcuméniques*, 29. For the special position of Jerusalem, cf. E. Lanne, "Eglises locales et patriarcats", 308; P. P. Joannou, "Pape, concile et patriarches dans la tradition canonique de l'eglise orientale jusque' au IXe s"., in *Les canons des synodes particuliers*, 542; H. Marot, "Note sur la pentarchie", 437.

churches beyond their own borders[48]. The third canon of the same council affirmed the supra-metropolitan prerogatives of Constantinople and granted it the rights of honour after the Bishop of Rome. The canon states:

> Because it is new Rome, the bishop of Constantinople is to enjoy the privileges of honour after the bishop of Rome[49].

This canon is to be understood in the particular historical context of the time. The Roman Emperor Constantine I (324-337) ended many years of persecution of Christians and, with the Edict of Milan in February 313, legalized Christianity in the empire so that Christians could follow their faith without oppression[50]. He established a new imperial residence in Byzantium and renamed the city Constantinople (modern Istanbul) after his own name, which later became known as "New Rome"[51]. Constantinople became the capital of the Roman Empire in 330; the Eastern Roman Empire was also called the Byzantine Empire because its capital was located in the city formerly known as Byzantium[52]. With the rise of Constantinople, Rome gradually lost its prestige and importance as the capital of the Roman Empire. It was against this historical

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[48] Constantinople I, canon 2: *Decrees of the Ecumenical Councils*, vol. 1, 31-32; *Conciliorum oecumenicorum decreta,* 31-32; *Les canons des conciles œcuméniques*, 46-47.

[49] Constantinople I, canon 3: *Decrees of the Ecumenical Councils*, vol. 1, 32; *Conciliorum oecumenicorum decreta,* 32; *Les canones des conciles œcuméniques*, 47-48. For the historical background and interpretation of the canon cf. H. Kreilkamp, *The Origin of the Patriarchate of Constantinople and First Roman Recognition of Its Patriarchal Jurisdiction,* Washington 1964, 40-63.

[50] Cf. P. Southern, *The Roman Empire from Severus to Constantine*, London 2001, 162-167; *The Cambridge History of Christianity: Origins to Constantine,* 538-548; P. Schaff, *History of the Christian Church, Volume III: Nicene and Post-Nicene Christianity, A.D. 311-600*, (fifth edition), Grand Rapids 1893, 10-22.

[51] The ancient Greek city of *Byzantion* or *Byzantium* was founded by the Megarians in the sixth century BC. The centre of the city was the Acropolis (today Topkapi Saray), where the temples of Aphrodite, Artemis and the Sun rose. E. J. Farrugia (ed.), *Encyclopedic Dictionary of the Christian East*, Rome 2015, 353-354.

[52] P. Schaff, *History of the Christian Church, Volume III,* 23-34; *A History of the Byzantine Empire,* https://brewminate.com/a-history-of-the-byzantine-empire-rome-in-the-east/, visited on 5 March 2023.

background that the council of Constantinople issued the canon quoted above. With the promulgation of this canon, Constantinople became the first seat among the Eastern Churches, and Alexandria and Antioch the second and third, respectively. It is of great interest that the Council placed Constantinople second only for political reasons. Constantinople had no other reason to have these privileges except that it was the "New Rome"[53].

Under Emperor Theodosius I (379-395), Christianity became the official state religion of the empire, and other religious practices were banned[54]. Over time, the Western Roman Empire declined, and the Eastern Empire, with its capital at Constantinople, gained strength and importance. The city of Constantinople definitively became the imperial residence and political capital of the Roman Empire. As a result of this change, the city and the Church of Constantinople also gained a very honourable position. In this context, the council of Chalcedon (451) definitively fixed the prerogatives of the four great Eastern patriarchal sees. Canon 28 of the council again emphasised the special position of Constantinople, confirmed its second place, and equated its privileges with those of ancient Rome as follows:

> Following in every way the decrees of the holy fathers and recognizing the canon which has recently been read out – the canon of the 150 most devout bishops who assembled in the time of great Theodosius of pious memory, then emperor, in imperial Constantinople, new Rome – we issue the same decree and resolution concerning prerogatives of the same holy church of the same Constantinople, new Rome. The fathers rightly accorded prerogatives to the see of older Rome, since that is an imperial city; and moved by the same purpose 150 most devout bishops apportioned equal prerogatives to the most holy see of new Rome, reasonably judging

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[53] Until 381 Constantinople was a suffragan see under the metropolitan of Heraclia of Thrace. Alexandria and Antioch did not oppose this change, since they too recognized the new situation of this Church and it was in accordance with the will of the emperor. Moreover, it was an accepted principle at that time that the importance of a Church corresponded to the political importance of the city. Cf. W. De Vries, *Rom und die Patriarchate des Ostens*, 10.

[54] P. Schaff, *History of the Christian Church, Volume III,* 40-43; *Storia della Chiesa* III/2*: Dalla pace costantiniana alla morte di Teodosio* (313-395), Cinisello Balsamo (Milano) 1995, 742-748.

> that the city which is honoured by the imperial power and senate and enjoying privileges equalling older imperial Rome, should also be elevated to her level in ecclesiastical affairs and take second place after her. The metropolitans of the dioceses of Pontus, Asia and Thrace, but only these, as well as the bishops of these dioceses who work among non-Greeks, are to be ordained by the aforesaid most holy see of the most holy church in Constantinople. That is, each metropolitan of the aforesaid dioceses along with the bishops of the province ordain the bishops of the province, as has been declared in the divine canons; but the metropolitans of the aforesaid dioceses, as has been said, are to be ordained by the archbishop of Constantinople, once agreement has been reached by vote in the usual way and has been reported to him[55].

The council issued this canon as a confirmation of the canon of "150 most devote bishops" assembled at the council of Constantinople in 381, namely the third canon cited above. As the said canon states, the main reason for Constantinople's second position is its political importance, since it is honoured by the imperial power and the senate. The most important innovation of this canon is that it reserved the consecration of the metropolitans of the three quasi-autonomous provinces of Pontus, Asia, and Thrace to the patriarch of Constantinople, thus transforming the honorary primacy recognised by the council of Constantinople into a kind of primacy of power and authority over them[56]. In addition, canons 9

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[55] Chalcedon, canon 28: *Decrees of the Ecumenical Councils*, vol. I, 99-100; *Conciliorum oecumenicorum decreta,* 99-100; *Les canons des conciles œcuméniques*, 90-93.

[56] For details: V. Parlato, *L'ufficio patriarcale*, 17-18; P. P. Joannou, "Pape, concile et patriarches", 543-544; W. De Vries, "Entstehung und Entwicklung der autonomen Ostkirchen", 55; J. E. Anastasiou, "Can All the Ancient Canons be Valid Today?", in *Kanon* 1 (1973) 36; H. Marot, "Note sur la Pentarchie" 437; C. Vogel, "Unité de l'Église et pluralité des formes historiques d'organisation", 621-622; V. T. Istavridis, "Prerogatives of the Byzantine Patriarchate", 47; C. De Clercq, "Patriarche en droit oriental", in *Dictionnaire de Droit Canonique*, vol. 6, Paris 1957, 1255; G. Alberigo, *Storia dei concili ecumenici*, 105; T. Camelot, *Ephése et Chalcédoine*, *Histoire des conciles oecuméniques* vol. 2, Paris 1961, 164; J. Meyendorff, *Orthodoxie et catholicité*, 70; F. Dvornik, *The Idea of Apostolicity in Byzantium*, 92; C. D. Cobham, *The Patriarchs of Constantinople*, Cambridge 1911, 28-29; H. Fuhrmann, "Studien zur Geschichte mittelalterlicher Patriarchate", in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 39 (1953) 129.

and 17 allowed that complaints against metropolitans could be brought either before the head of the "diocese" or before the imperial see of Constantinople[57].

At the council of Chalcedon, the See of Jerusalem also obtained its autonomy and became the fifth patriarchate. Jerusalem received the Three Palestine provinces that had been taken from the Church of Antioch[58]. The council in Trullo (691), in canon 36, reaffirmed the second position of Constantinople and repeated the order of precedence of the five patriarchates[59]. Thus developed the five supra-metropolitan primatial powers within the Roman Empire: Rome, Constantinople, Alexandria, Antioch, and Jerusalem.

In addition, two other *catholicates* or patriarchates developed outside the Roman Empire, in Persia and Armenia, respectively. The Persian Church became a fully autonomous catholicate under the primacy of the bishop of Seleucia-Ctesiphon, the capital of the Persian Empire, at the beginning of the fifth century[60]. Armenia

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[57] *Decrees of the Ecumenical Councils*, vol. I, 91 and 95; *Conciliorum oecumenicorum decreta,* 91 et 94; *Les canons des conciles œcuméniques*, 76-77 et 82-83.

[58] The promotion of the see of Jerusalem to the rank of patriarchate is not treated in the canons of the council. The Fathers in the fourth and last session ratified an accord between Archbishop Maximus of Antioch and Bishop Juvanal of Jerusalem. "Maximus reverendissimus episcopus antiochiae Syriae dixit. Placuit mihi reverend. episcopo Juvenali, propter multam contentionem per consensum ut sedes quidem Antiochensium maximae civitatis beati Petri habeat duas Phoenicias et Arabiam, sedes autem Hierosolimorum habeat tres Palestinas. Et rogamus ex decreto vestrae magnificentiae et sancti concilii, haec scripto firmari. Juvenalis sanctissimus Hierosolimorum civitatis episcopus dixit: Haec etiam mihi complacuerit ut sancta quidem Christi resurrectio tres Palestinas habeat, sedes autem antiochiensis duas Phoenicias et Arabiam". Chalcedon, *Actio* VII, Mansi 7, 179; E. Schwartz, *Acta conciliorum oecumenicorum*, tomus II: *Concilium universale Chalcedonese,* vol 3, Berlin-Leipzig 1932, 4-5.

[59] G. Nedungatt and M. Featherstone (eds.), *The Council in Trullo Revisited*, 114; *Les canons des conciles œcuméniques,* 170.

[60] J. B. Chabot, *Synodicon orientale ou recueil des synodes nestoriens*, Paris 1902, 259-260 & 296; W. F. Macomber, "The Authority of the Catholicate Patriarch of Seleucia-Ctesiphon", in *I patriarcati orientali nel primo millennio* (*OCA* 181), Roma 1968, 179-200; Congregation for the Eastern Churches, *The Catholic East*, Vatican City 2019, 254-255; W. De Vries, *Rom und die Patriarchate des Ostens*, 8-9; "Entstehung und Entwicklung der autonomen Ostkirchen", 52-53;

embraced Christianity thanks to the missionary work of St Gregory the Illuminator in the fourth century, and the Armenian Church also became an autonomous *catholicate* in the fifth century[61]. According to some scholars, the Persian Church gradually embraced Nestorianism[62] and the Armenian Church Monophysitism[63]. Therefore, in practice the Catholic Church consisted of the five patriarchates within the Roman Empire.

Emperor Justinian (482-565 AD) gave state sanction to the dogmas and canons of the first four ecumenical councils, making them part of imperial doctrine and state law valid throughout the Roman Empire[64]. He also incorporated into state law the division of the Church in the Empire into five patriarchates and recognized the order of precedence of the five patriarchs according to the third canon of Constantinople and the twenty-eighth canon of

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Oriente cristiano ieri e oggi, Roma 1949, 34-35; E. Lanne, "Eglises locales et patriarcats", 304-308; cf. G. P. Badger, *The Nestorians and Their Rituals*, vol. I, London 1987, 137-142.

[61] Cf. G. Amadouni, "L'autocephalie du katholicat Armenien", in *I patriarcati orientali nel primo millennio* (*OCA* 181), Roma 1968, 165-175; Congregation for the Eastern Churches, *The Catholic East*, 285-287; W. De Vries, *Rom und die Patriarchate des Ostens*, 11-12; "Entstehung und Entwicklung der autonomen Ostkirchen", 53-54; A. A. King, *The Rites of Eastern Christendom*, vol. 2, Rome 1948, 522-528.

[62] Cf. Congregation for the Eastern Churches, *The Catholic East*; 255; W. De Vries, "Entstehung und Entwicklung der autonomen Ostkirchen", 64-65; *Oriente Cristiano ieri e oggi*, 41-42; R. Roberson, *The Eastern Christian Churches* (seventh edition), Rome 2008, 13; 1; C. De Clercq, "Patriarche en droit oriental" 1256; A. A. King, *The Rites of Eastern Christendom*, 256 & 259-264; A. Atiya, *A History of Eastern Christianity,* New York-London 1968, 252-253.

[63] W. De Vries, "Entstehung und Entwicklung der autonomen Ostkirchen", 65-66; *Oriente Cristiano ieri e oggi*, 46-47; C. De Clercq, "Patriarche en droit oriental", 1256; A. A. King, *The Rites of Eastern Christendom*, 529-532; A. Atiya, *Eastern Christianity*, 326-328.

[64] "Sancimus igitur, ut legum vicem obtineant sacri ecclesiastici canones, qui a sanctis quatuor synodis expositi vel confirmati sunt, hoc est a Nicaena trecentorum decem et octo, et Constantinopolitana centum quinquaginta sanctorum patrum, et Ephesina prima, in qua Nestorius condemnatus est, et Chalcedonesi, in qua Eutiches cum Nestorio anthamate percussus est. Praedictorum enim sacrarum synodorum et dogmata ut divinas scripturas suscipimus, et canones tamquam leges custodimus". Emperor Justinian, *Novellae* 131, caput 1 *(Corpus Iuris Civilis*, pars III), in Fratres Kriegelli (edd.), Lipsiae 1858, 593.

Chalcedon[65]. It was at this time that the Byzantine theory of pentarchy arose, according to which the Church of God was governed by five patriarchs[66]. Thus, in their historical origin, the patriarchal and synodal institutions are neither a concession of the Roman Pontiff nor a sharing of his power, but the result of spontaneous action of the bishops and an institution of ancient tradition and custom sanctioned by the ecumenical councils celebrated jointly by East and West[67]. As W. De Vries affirms: "it would *a priori* be unhistorical if one wished to explain the patriarchs' powers as a granting of privileges by Rome, that is, as an exceptional transmission of series of faculties which of themselves necessarily pertain to the central power of Rome"[68]. Prof. Hans Joachim Schulz provides the following explanation regarding the origin of patriarchal power:

> Theologically the *origin of the rights of the patriarchates* is to be explained by the fact that the bishops of large territories renounced some of their rights in favor of the most prominent local Church for the sake of better and more uniform administration. The patriarchal rights are then to be considered as flowing from the rights of the college of bishops of the respective territory. The concentration of these rights in the person of the patriarch became a legitimate

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[65] Cf. Emperor Justinian, *Novellae* 123, caput 3 et 131, caput 2, in Fratres Kriegelli (edd.), 542 and 593.

[66] Cf. D. Salachas, "L'istituzione patriarcale e sinodale", 238-239.

[67] W. De Vries, "The Origin of Eastern Patriarchs", 50-59; "La S. Sede ed i patriarcati", 313-326; *Rom und die Patriarchate des Ostens*, 13-18; "Entstehung und Entwicklung der autonomen Ostkirchen", 45-54; "Die Patriarchate des Ostens: bestimmende Faktoren", in *I Patriarcati orientali nel primo millennio* (*OCA* 181), Roma 1968, 15-35. Cf. also K. Mörsdorf, "L'atonomia della Chiesa locale", in *Atti del congresso internationale di diritto canonico: La Chiesa dopo il concilio*, Roma 1970, 181-182; D. Salachas, "L'istituzione patriarcale e sinodale", 240-243; *Istituzioni di diritto canonico delle Chiese cattoliche orientali*, Roma-Bologna 1993, 140; H. J. Schulz, "The Dialogue with the Orthodox", in *Concilium* 4 (1965) 68-69; H. Marot, "The Primacy and Decentralisation", 14; L. Waldmüller, "Das Konzil im Verständnis der Ostkirche", 145-146; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale", 174.

[68] W. De Vries, "The Origin of Eastern Patriarchates", 55.

> tradition, the regulation of which was determined by the councils for the whole Church[69].

Although the bishops of Rome were reluctant to accept the twenty-eighth canon of Chalcedon at that time, they treated the four patriarchs of the East in practice according to the order of precedence established by the same council[70]. The seventh ecumenical council, Nicaea II (787), with the approval of the papal legates, gave general sanction to the canons of the "six holy universal synods" and "the synods assembled locally for promulgation of such decrees"[71]. At the Fourth council of Constantinople (869), considered ecumenical by the Latin Church, the Bishop of Rome finally recognized the four Eastern patriarchs according to the order of precedence in the East. After the council established the obligation of the secular powers to consider the patriarchs worthy of all honour and veneration, it states:

> This applies in the first place to the most holy pope of the old Rome, secondly to the patriarch of Constantinople, and then to the patriarchs of Alexandria, Antioch and Jerusalem […][72].

Later, at the Fourth Lateran Council (1215), the same order of precedence was accepted when Constantinople was under the Latin patriarch[73]. At the council of Florence, the legitimacy of the Eastern patriarchs was again recognized and the order established at the council of Chalcedon was confirmed[74].

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[69] H. J. Schulz, "The Dialogue with the Orthodox", 68.

[70] Cf. W. De Vries, "College of Patriarchs", in *Concilium* 8 (1965) 35; *Rom und die Patriarchate des Ostens*, 17; "Die Entstehung der Patriarchate des Ostens", 354-355.

[71] Nicaea II (787), canon 1: *Decrees of the Ecumenical Councils*, vol. I, 138-139; *Conciliorum oecumenicorum decreta,* 138-139; *Les canons des conciles œcuméniques*, 245-248.

[72] Constantinople IV (869-870), canon 21: *Decrees of the Ecumenical Councils*, vol. I, 182; *Conciliorum oecumenicorum decreta*, 182; *Les canons des conciles œcuméniques*, 331.

[73] Lateran IV, constitution 5: *Decrees of the Ecumenical Councils*, vol. I, 236; *Conciliorum oecumenicorum decreta*, 236.

[74] Florence, Session VI (6 July 1439), definition: *Decrees of the Ecumenical Councils*, vol. I, 528; *Conciliorum oecumenicorum decreta*, 527.

The five great patriarchates of Rome, Constantinople, Alexandria, Antioch, and Jerusalem came into being under divine providence, the patriarchal rank being an institution according to ancient custom and tradition. The ecumenical councils of the first millennium, the supreme authority of the Church at that time, did not create patriarchates, but found the patriarchal rank to already exist and, therefore, only recognized and honoured it.

3.3. Primacy at the Universal Level: the Bishop of Rome

The canons of the first seven ecumenical councils, which we have already examined, clearly affirm the unique position and special prerogatives of the Bishop of Rome and consider him the first patriarch, namely the patriarch of the West. Canon 6 of Nicaea I, already cited above, affirms that "the bishop of Alexandria has authority over all these places, since a similar custom exists with reference to the Bishop of Rome". The council that confirmed the prerogatives of Alexandria (and Antioch) did so in accordance with the customary practice of the Roman See. In fact, Rome was taken as the model for such autonomous demarcations. This means that Rome enjoyed these prerogatives since very ancient times. According to Cardinal Duprey, this canon is an explicit testimony to the immense and extraordinary authority that the Bishop of Rome possessed in the Christian world at the beginning of the fourth century[75]. However, this text, which establishes a parallel between Alexandria and Rome, describes regional primacy. It was not about universal primacy, because the council did not speak of a universal primacy of Alexandria, but affirmed that Alexandria had a regional primacy because the Bishop of Rome also had a regional primacy[76].

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[75] P. Duprey, "The Synodical Structure", 166; cf. also J. Meyendorff, *Orthodoxie et catholicité*, 55 and 58-59; O. Kéramé, "Les chaires apostoliques et role des patriarcats" (*Unam Sanctam* 39), Paris 1962, 265. For an evaluation of the privileges and authority of Rome in the West at the time of the council of Nicaea: P. Batiffol, *Cathedra Petri*: *études d'histoire ancienne de Eglise*, Paris 1938, 41-59; J. F. McCue, "The Roman Primacy in the Patristic Era", in P. C. Empie and T. A. Murphy (eds.), *Papal Primacy and the Universal Church*, (USA, no specific place) 1974, 43-72.

[76] J. Meyendorff, *Catholicity and the Church,* New York 1983, 127-128; H. Marot, "The Primacy and Decentralisation", 10; cf. also B. Kurtscheid, *Historia*

As Ladislas Örsy noted, "It is certain that at the time of Council of Nicaea, Rome enjoyed special reverence as the see of Peter and Paul. It was considered also as a qualified witness for the tradition inherited from the apostles, but no administrative structures developed that would have embraced the whole Church, other than the ecumenical councils"[77].

The third canon of the council of Constantinople I (381), quoted above, affirmed the second position of the See of Constantinople, even then its bishop was not considered the first. The change brought about by this canon did not directly affect Rome in any way, but only the sees of Alexandria and Antioch. Originally, it was an Eastern council, and the intention of the Fathers was to reorganize the ecclesiastical affairs of the Eastern dioceses and to regulate them only[78]. The canons decided by the Fathers were to apply only to the East, and the elevation of the bishop of Constantinople to such a high rank was a measure that primarily affected the status of the bishops of the Eastern Church capitals. Therefore, this measure affected only the East and had no bearing on the precedence of Rome[79]. As Orthodox theologian John Meyendorff acknowledges, "the increasing importance of

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iuris canonici, 126-127; I. Ortiz de Urbina, *Nicée et Constantinople*, 102. The Roman see exercised primacy over the whole of Italy: F. Dvornik, *The Idea of Apostolicity in Byzantium*, 23-29.

[77] Cf. L. Örsy, "The Development of the Concept of Protos", 89.

[78] Only the four patriarchates of East participated in this council. Later the dogmas of this council were also accepted by the Pope and its ecumenicity finally determined in the council of Chalcedon. Cf. I. Ortiz De Urbina, *Nicée et Constantinople*, 223-242. The council's dogmatic authority in the Western Church was made clear by the words of Pope Gregory I: "Sicut Sancti Evangelii quatuor libros, sic quatuor concilia suscipere et venerari me fateor [...]": Gregory I, *Epistola* 25; in *PL* 77, 478. For the acceptance of this council in the West: Y. Congar, "La primauté des quatre premiers conciles œcuméniques", in *Le concile et les conciles*, Chevetogne 1960, 75-94. But some Popes held that canon 3 was never brought to the knowledge of the Apostolic See: cf. Pope Leo I, *Epistola* 106, *Ad Anatolium*, in *PL* 54, 1007, also in Mansi 6, 203; Gregory I, *Epistola* 34, in *PL* 77, 893. At that time there was no reason to bring the canons to the knowledge of Rome, since this council was an Eastern council only and the Fathers intended to legislate only for the East. However, there is ample evidence that the canon three was also known in the West. See F. Dvornik, *The Idea of Apostolicity in Byzantium*, 56.

[79] Cf. F. Dvornik, *The Idea of Apostolicity in Byzantium*, 51-55.

Constantinople was not in competition with the Bishop of ancient Rome, whose primacy was uncontested; it was directed against Alexandria, which still claimed to be second in importance to Rome both in ecclesiastical and civil affairs"[80].

According to Orthodox Historian Professor Vasil T. Istavridis, "canon three of Constantinople in 381 should not by no means be accepted as diminishing the primacy of Rome. On the contrary, this primacy is clearly stated as a basis for comparison, as the same thing has already happened in I Nicaea, canon six for Alexandria. This canon was rather a decision taken against the See of Alexandria, which thus moved to the third position in ecclesiastical precedence"[81]. Cardinal Duprey confirmed:

> This canon attributes an honour to Constantinople because of a new prerogative which this Church enjoys: and consequently this Church an authority which comes second to that of the Bishop of Rome. The reason given, that he has this honour because he is the bishop of the capital, is a new one. But even so he is still not the first bishop, which would suggest that recognition of the prerogatives of the Church of Rome and of the authority of its bishop is not merely based on its importance as the old capital[82].

However, it does not appear from this canon that the Bishop of Rome had any authority over other patriarchal Churches. "It would be a poor construction to hold that by the use of the short and subordinate clause 'after the see of Rome', the council intended to make a precise and firm statement about the extent of the authority of the bishop of Rome"[83].

The Council of Chalcedon (451), in canon 28 quoted above, stated that the see of Constantinople, honoured by the imperial power and the senate, enjoyed privileges equal to those of the older imperial Rome, and determined that Constantinople should be raised to the level of ancient Rome in ecclesiastical matters and take second

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[80] J. Meyendorff, *Orthodoxie et catholicité*, 31; "Ecclesiastical Organization", 9.

[81] V. T. Istavridis, "Prerogatives of the Byzantine Patriarchate", 44.

[82] P. Duprey, "The Synodical Structure", 167.

[83] Cf. L. Örsy, "The Development of the Concept of "Protos", 89.

place after it. This canon was renewed and confirmed by the Council of Trullo through canon 36[84]. Again, these canons do not deny the great privileges and unique position of the Roman See, but only attempt to equate the privileges of Constantinople with those of the See of Rome on the basis of the principle of political accommodation.

Since the Roman legates opposed canon 28 of Chalcedon, the Roman Emperor Marcian (450-457) and the Patriarch of Constantinople Anatolius (from 449 to 458) sought approval of the council from Pope Leo I (440-461). Because the heretics misinterpreted his withdrawal of approval, the Pope ratified the council's doctrinal decrees on 21 March 453[85]. However, he rejected canon 28 on the grounds that it contradicted the legislation of the Council of Nicaea, which had granted second and third rank to Alexandria and Antioch[86]. Pope Leo I thus rejected canon 28 not because it diminished the rights of the Roman See, but because it reversed the hierarchy of the great sees established by tradition and recognized by the sixth canon of Nicaea, and because it asserted privileges only for political reasons[87].

The Fathers who promulgated this canon did not want to diminish the authority of the Roman See in any way, which they explicitly acknowledged in their letter to Pope Leo I[88]. Both

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[84] Trullo, canon 36: *Les canons des conciles œcuméniques*, 170; G. Nedungatt and M. Featherstone (eds.), *The Council in Trullo Revisited*, 114.

[85] Pope Leo I, *Epistola* 114, in *PL* 54, 1029, also in Mansi 6, 226.

[86] For a detailed analysis of the position of the Popes see A. Wuyts, "Le 28° canon de Chalcédoine et le fondament du primauté romain", in *OCP* 17 (1951) 265-282; F. Hofmann, "Der Kampf der Päpste um Konzil und Dogma von Chalkedon von Leo dem Grossen bis Hormisdas (451-519)", in *Das Konzil von Chalkedon*, Band II, Würzburg 1953, 13-94; F. Dvornik, *The Idea of Apostolicity in Byzantium*, 81-105.

[87] Cf. Pope Leo, *Epistola* 104, *Ad Marcianum*, *PL* 54, 995.

[88] See *Epistola Sanctae Synodi Chalcedonesis ad Sanctissimum Papam Romanae Ecclesiae Leonem*, in *PL* 54, 955-959; *Actio Decima Sexta Chalcedonesis Concilii*, in Mansi 7, 451-454; E. Hermann, "Chalkedon und die Ausgestaltung des konstantinopolitanischen Primats", in A. Grilmeier und H. Bacht (edd.), *Das Konzil von Chalkedon*, Band II, Würzburg 1953, 470-471; F. Dvornik, *The Idea of Apostolicity in Byzantium*, 92.

Patriarch Anatolius and Emperor Marcian recognized the first position and primacy of the Bishop of Rome in their written requests to Pope Leo for approval of the canon[89]. Moreover, the Council of Chalcedon, which granted Constantinople authority over the three relatively autonomous dioceses of Pontus, Asia, and Thrace, claimed only second place after the See of Rome. This means that Rome, because of its political and religious importance (capital of the ancient Roman Empire, dual apostolicity of Peter and Paul), comes first and enjoys more power and prerogatives than Constantinople, which comes second. Therefore, canon 28 is a clear affirmation of the primacy of the Bishop of Rome[90]. Likewise, the repeated requests of Patriarch Anatolius and Emperor Marcian to the Pope for approval or acceptance of canon 28 are themselves sufficient proof of the primacy of the Bishop of Rome.

The scrutiny of the first seven ecumenical councils clearly demonstrates that Rome was the first see and that it has always possessed unique privileges and prerogatives, above all because of its dual apostolicity of Petrine and Pauline origin and because of its political importance as the ancient capital of the Roman Empire. However, there is no canon which suggests that the Bishop of Rome had any ordinary jurisdiction over other patriarchates. Rather, many canons emphatically affirm the autonomy of the patriarchal sees and accept non-interference in the internal affairs of other Churches as a fundamental principle.

3.3.1. Primacy of the Pope as Head of the Patriarchs: the Theory of Pentarchy

The theory of pentarchy is based on the administrative division of the Church in the Roman Empire into five patriarchates, which made the patriarchs holders of supreme power in the Church, except for the unique position of the Bishop of Rome. As we have already

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[89] See *Epistola Marciani imperatoris ad Leonem Papam*, in *PL* 54, 972-973; *Epistola Anatoli episcopi Constantinopolis ad S. Leonem Archiepiscopum Romae*, in *PL* 54, 980-983; also *Epistola (128) Anotoli ad Leonem*, in *PL* 54, 1082-1083; cf. J. Meyendorff, *Orthodoxie et catholicité*, 71; W. De Vries, "Die Struktur der Kirche gemäss dem Konzil von Chalkedon (451)", *OCP* 35 (1969) 98-111.

[90] Cf. P. P. Joannou, "Pape, concile et patriarches", 546.

seen, Emperor Justinian (527-565), who proclaimed the first position of the Bishop of Rome in his *Novellae*, legalised the order of the patriarchs by placing the bishop of Constantinople second in the enumeration of the patriarchs of the West and the East[91]. According to Justinian, the five patriarchates subsumed the entire Catholic Church[92]. Thus arose the theory of pentarchy, which held that the Church of God was governed by five patriarchs in accordance with God's plan and as recognized by the ecumenical councils[93]. The Orientals held that the five patriarchates are of divine origin; their patriarchs are pre-eminently successors of the apostles, the five senses of the Church, and the five pinnacles of ecclesiastical authority[94].

According to ancient canonical tradition, the five preeminent thrones were considered the five administrative heads of the Church, and the system of the pentarchy of patriarchal sees was considered the highest administrative authority of the universal Church. The five patriarchs formed one unit, a supreme governing body headed by the Bishop of Rome. By establishing the pentarchy, the five patriarchs became the administrative heads of the five ecclesiastical administrative bodies throughout the Christian world. Each of the patriarchates had its own autonomy and the right to self-government with respect to matters within its territory[95]. As we have seen, the

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[91] Emperor Justinian, *Novellae* 123, cap. 3 & 131, cap. 2; cf. *PG* 86, 982.

[92] Emperor Justinian, *Novellae* 109, preface; see also caput 1 and 2 of the same *Novellae*; also, Justinian's dogmatic writings, *PG* 86, 1044. For more about pentarchy according to Emperor Justinian, P. O'Connel, *The Ecclesiology of St Nicephorus I* (758-828) *Patriarch of Constantinople, Pentarchy and Primacy* (*OCA* 194), Roma 1972, 30-33.

[93] Cf. P. P. Joannou, "Pape, concile et patriarches", 547; E. Herman, "Chalkedon und die Ausgestaltung", 477. For details about Pentarchy, V. Peri, "La pentarchia: istituzione ecclesiale (IV-VII sec.) e teoria canonico-teologica", in *Bisanzio, Roma e l'Italia nell'alto medioevo,* vol. XXXIV, tomo primo, Spoleto 1988, 209-311.

[94] Cf. The introductory speech of Anastasius the Librarian at the Fourth Council of Constantinople (869), in Mansi 16, 7; Theodore the Studite, *Epistola* 129, in *PG* 99, 1418; The speech of the metropolitan of Smyrna at the Fourth Council of Constantinople, *Actio* VI, in Mansi 16, 82.

[95] Cf. V. Phidas, "Primus Inter Pares", 183; W. De Vries, "College of Patriarchs", 39. For more about pentarchy, V. Parlato, *L'ufficio patriarcale*, 51-55;

metropolitan was the first among the bishops of the province, the patriarch in his patriarchate, and the Pope was the first among the five patriarchs, namely in the universal Church. At that time the first patriarch did not exercise any direct or ordinary jurisdiction except within the boundaries of his own patriarchate, but he had the responsibility of coordinating the body of the five patriarchs in solving problems concerning the true faith and ecclesiastical order[96].

3.3.2. Pentarchy, Ecumenical Council and the Bishop of Rome

The ecumenical council was the highest expression of consensus among the Churches and the highest authority of the universal Church. The participation of the five patriarchs was an important condition and criterion for the ecumenicity of a council and the authenticity of its doctrine and canons[97]. The consent of the Bishop of Rome or his participation as the first among the patriarchs (through the legates or his later reception of the council) was a constitutive and indispensable condition for ecumenicity, universality, and infallibility of doctrine[98]. In short, the theory of

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M. Gordillo, *Compendium theologiae orientalis*, Romae 1950, 54-57; *Theologia orientalium cum latinorum comparata* (*OCA* 158), Rome 1960, 122-124; E. Lanne, "Eglises locales et patriarcats" 316-316; H. Marot, "Note sur le pentarchie", 436-442; L. Waldmüller, "Das Konzil im Verständnis der Ostkirche", 146-147; E. Herman, "Chalkedon und die Ausgestaltung", 477-480; J. Hoeck, *Primum Regnum Dei, Die Patriarchalstruktur*, 63.

[96] Cf. V. Phidas, "Primus Inter Pares", 184-185.

[97] Cf. Inaugural Discourse of Anastasius the Librarian at the Fourth Council of Constantinople, Mansi 16, 7: Theodore the Studite, *Epistolarum* Lib. II, 72 , *PG* 99, 1306 and Epistola 129, *PG* 99, 1418-1419; Maximus the Confessor, *Disputatio cum Pyrrho*, *PG* 91, 351-354; John Damascene, *Adversus Constatinum Cabalinum*, *PG* 95, 331; Y. Congar, "Le pape come patriarche d'occident: approche d'une réalité trop négligée", in *Istina* 28:4 (1983) 378; "Church Structures and Councils in the Relations between East and West", in *One in Christ* 11 (1975) 245-246; P. O'Connel, *The Ecclesiology of St Nicephorus I,* 120-159; V. Peri, "La synergie entre le pape et le concile œcuménique, note d'histoire su l'ecclésiologie traditionnelle de l'Eglise indivise", in *Irénikon* 56 (1983) 174; *I concili e le Chiese*, *Ricerca storica sulla tradizione d'universalità dei sinodi ecumenici*, Rome 1965, 32-34; W. De Vries, "Die Struktur der Kirche gemäss dem II Konzil von Nikäa", 70-71.

[98] The Patriarch Nicephorus of Constantinople, "Apologeticus pro Sacris imaginis", *PG* 100, 598-599. For a detailed analysis of the concept of primacy

pentarchy, as it was held in the first millennium, in no way excluded the primacy of the Bishop of Rome. He was always considered the head of the patriarchs and defender of orthodoxy with special privileges and prerogatives[99].

All the first seven ecumenical councils were convened and presided over by the respective emperor or empress of the East, either directly or through their officials, and the decrees and canons were promulgated by them. The Bishop of Rome was not personally present at any of the first seven ecumenical councils. His consent or approval was considered as necessary as that of the other major patriarchal sees, especially Constantinople, Alexandria, Antioch, and Jerusalem, to ensure the ecumenicity of the council, which was based on the principle of unanimity[100]. A study by the World Council of Churches on the importance of the conciliar process in the early Church for the ecumenical movement confirms this:

> The classical Ecumenical Councils met in the period of the Roman Empire. The Christian emperor called them together, often led their deliberations, approved their results, and gave them juridical status. This can be explained from the historical situation. The fourth century considered it self-evident that the emperor, who had become a Christian, should assume responsibility for the Church [...][101].

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according to Nicephorus: P. O'Connel, *The Ecclesiology of St Nicephorus I*, 160-194; the concept of Maximus the Confessor, *PG* 91, 137 and 144; The Speech of John the Deacon at the Second Council of Nicaea (787), Mansi 13, 207-210; cf. also J.-M. R. Tillard, *L'évêque de Rome*, 228-232; Y. Congar, "Church Structures and Councils", 248-250; "Le pape come patriarche d'occident", 378; V. Peri, "La synergie entre le pape et le concile oecuménique", 170 and 172-178; *I concili e le Chiese*, 29-32.

[99] Cf. W. De Vries, "The College of Patriarchs", in *Concilium* 8 (1965) 40; H. Marot, "Note sur le pentarchie", 439; V. Phidas, "Primus Inter Pares", 185; V. Parlato, *L'ufficio patriarcale*, 54-55; J.-M. R. Tillard, *L'évêque de Rome*, 228-232; F. Dvornik, *Byzantium and the Roman Primacy*, 103-104.

[100] Cf. N. P. Tanner, *The Councils of the Church: A Short History*, New York 2001, 19-20; *Decrees of the Ecumenical Councils*, vol. 1, 1-2, 21, 37, 75, 105, 131; *Conciliorum oecumenicorum decreta,* 1-2, 20-21, 37-38, 75-76, 105-106, 123, 131-132; A. Fortescue, *The Orthodox Eastern Church*, London 1916, 75-81; P. Pallath, "Eastern Canon Law throughout the Centuries", 24-27.

[101] World Council of Churches, *Councils and the Ecumenical Movement* (*Studies* No. 5), Geneva 1968, 12.

In a sense, the first seven ecumenical councils can also be called imperial councils. At that time, oecumene (*οἰκουμένη*, *oikouménē*) referred only to the Roman Empire, and therefore the ecumenical councils were assemblies of the bishops of the same empire; generally bishops outside the empire, namely those of the catholicates of Armenia and Persia, were not convened.

Recent dialogues with the Orthodox Churches have demonstrated that they also recognize the special role of the Pope in the ecumenical councils: "Although the bishop of Rome did not convene the ecumenical councils of the early centuries and never personally presided over them, he nevertheless was closely involved in the process of decision-making by the councils"[102]. Often, he was represented by his legates in the councils. Moreover, the reception by the Bishop of Rome was also considered necessary for the ecumenicity of a council. In view of all this, the Orthodox Churches and other ecclesial Communions can also accept a special role for the Bishop of Rome in convening and presiding over ecumenical councils in a united Church under the given circumstances (no other universal authority)[103].

3.3.3. Primacy of the Bishop of Rome as the Final Instance of Appeals

The first testimony to the primacy of the Bishop of Rome as the final instance of appeal is attested by the canons of the Council of Sardica in 343, which are recognized in both the East and the West[104]. Canons three to five of the Council of Sardica recognize

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[102] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 75 (no. 105).

[103] Cf. Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 75-76 (nos. 105-106).

[104] The synod was held at Sardica or Serdica (modern Sofia, Bulgaria). It was jointly convened by the emperors Constantius (Eastern Roman Empire) and Constans I (Western Roman Empire) to attempt a settlement of the Arian controversies. The synod of Sardica enacted 20 canons which have come down to us both in Greek and Latin. *Les canons des synodes particuliers*, 100-126; *The Seven Ecumenical Councils*, 105-121; C. J. Héfélé, *Histoire des conciles*, Tome I, 494-522; cf. *Storia della Chiesa* III/1: *Dalla pace costantiniana alla morte di Teodosio* (313-395), Cinisello Balsamo (Milano) 1995, 154-161.

the right of a bishop, who has been condemned 'by the synod of his province in any matter to make an appeal to the Bishop of Rome. According to canon three "if perchance sentence be given against a bishop in any matter and he supposes his case to be not unsound but good, in order that the question may be reopened, let us, 'if it seem good to your charity, honour the memory of Peter the Apostle, and let those who gave judgment write to Julius, the Bishop of Rome, so that, if necssary, the case may be retried by the bishops of the neighbouring provinces and let him appoint arbiters; but if it cannot be shown that his case is of such a sort as to need a new trial, let the judgment once given not be annulled, but stand good as before"[105]. The canon justifies the decision concerning the appeal procedure to the see of Rome on spiritual grounds: to "honour the memory of Peter the Apostle"[106]

Canon four states that if a bishop who has been deposed by a provincial synod claims that he has a new cause in his defence, no new bishop shall be appointed to his see unless the Bishop of Rome judges and makes a final decision[107]. Thus, if a bishop appeals to Rome, the judgement of the provincial synod may be suspended until the Bishop of Rome has made a decision. The provincial synod can only appoint a new bishop to replace the deposed bishop once it has received the final decision of the Bishop of Rome. Canon five describes the procedure for a second trial in the case of an appeal to the Bishop of Rome as follows:

> If any bishop is accused, and the bishops of the same region assemble and depose him from his office, and he appealing, so to speak, takes refuge with the most blessed bishop of the Roman Church, and he be willing to give him a hearing, and think it right to renew the examination of his case, let him be pleased to those fellow bIshops who are nearest the province that they may examine the particulars with care and accuracy and give their votes on the matter in accordance with the word of truth. And if anyone requires that his

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[105] *The Seven Ecumenical Councils*, 417; *Les canons des synodes particuliers*, 162-163; Mansi 3, 7. Julius I was Bishop of Rome from 337 to 352.

[106] Cf. Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 73 (no. 101).

[107] *The Seven Ecumenical Councils*, 418; *Les canons des synodes particuliers*, 163-164; Mansi 3, 7-10.

> case be heard yet again, and at his request it seems good to move the bishop of Rome to send presbyters a *latere*, let it be in the power of that bishop, according as he judges it to be good and decides it to be right – that some be sent to be judges with the bishops and invested with his authority by whom they were sent. And be this also ordained. But if he thinks that the bishops are sufficient for the examination and decision of the matter let him do what shall seem good in his most prudent judgment[108]

According to the canon, in the case of an appeal, the Bishop of Rome may examine the judgement of the local synod and either confirm the first judgement or, if the examination has revealed irregularities, order the trial to be resumed. In the event of a new trial, he can either instruct the bishops of the neighbouring province to re-examine the case in detail or send a few delegates to reach a new verdict together with the bishops[109] Taking into account the wording of the canons of Sardica on appeals, some authors are of the opinion that the Bishop of Rome was in fact not a superior appellate authority in the strict sense, but only a 'quasi-instance of supplication', as it was aptly called, a kind of general supervision over the synods of the Church[110].

According to the three canons of the Council of Sardica that we have examined, the legal procedure for judging the case of a bishop includes the following steps: 1) The first judicial instance for a bishop is the synod of bishops of the province. 2) The convicted bishop may appeal to the Bishop of Rome with a petition or a supplication if he considers that he has been unjustly penalised. 3) In the case of an appeal, the Bishop of Rome may either confirm the judgement of the provincial synod or order a new trial. 4) If he

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[108] *The Seven Ecumenical Councils*, 419; *Les canons des synodes particuliers*, 164-165; Mansi 3, 10.

[109] Cf. H. J. Sieben, "Episcopal Conferences in Light of Particular Councils during the First Millennium", in *The Jurist* 48 (1988) 43; H. Legrand, "Brève note sur le synode de Sardique et sur sa réception, Rome instance d'appel ou de cassation?", in *La primauté romaine dans la communion des Eglises*, Paris 1991, 49. For a historical review of the Sardican canons, H. J. Sieben, "Sanctissimi Petri Apostoli memoriam honoremus: die Sardicensischen Appellationskanones im Wandel der Geschichte", in *Theologie und Philosophie* 58 (1983) 501-534.

[110] H. J. Sieben, "Episcopal Conferences in Light of Particular Councils", 43; H. Legrand, "Brève note sur le synode de Sardique", 5.

deems a new trial necessary, he may instruct the bishops of the neighbouring province to re-examine the case, or he may send his own delegates to make a final judgement together with the bishops. As it has been recently confirmed, "this procedure corresponds more to a Final Court of Appeal or to a Court of Cassation, since the retrial was conducted not by Rome but by local bishops[111].

Based on the canons of Sardica the Orthodox-Catholic dialogues recognized the fact that "over the centuries, a number of appeals were made to the bishop of Rome, also from the East", even in the first millennium and a ministry of unity by the bishop of Rome in case of disputes and conflicts over disciplinary or doctrinal matters may be acceptable in a united Church[112].

3.3.4. Universal Primacy of the Bishop of Rome as the Guarantee of Communion and Unity of Faith

In the first millennium, the function of the Pope was to be the touchstone and ultimate criterion for the universal or Catholic communion of the Church. "The basic function of the Pope was not the performance of given official actions, but simply being present as the fundamental point of orientation and unity in the network of communion between the several Churches [...]. His essential office is Bishop of Rome, the primatial diocese of the Catholic world. As Bishop of Rome, the Pope is in the episcopal college holding the first place among all the bishops"[113]. Cardinal Yves Congar confirms that the role of the Pope in the network of communions was to be the indispensable guarantor of ecclesial communion and the unity of the faith, judging cases that challenged them, according to tradition and the canons that governed the life of the Churches. In this sense, one could speak of a "power in" the Church, as opposed to a "power over" the Church. It is obvious that the central power, the Roman See, has the charism and the authority to fulfil its

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[111] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 73 (no. 101).

[112] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 73-74 (nos. 102-103).

[113] L. Hertling, *Communio: Church and Papacy in Early Christianity,* Chicago 1972, 10-11; for detailed analysis, pages 52-76.

particular task, namely to moderate the communion of the Churches and to ensure the preservation of the apostolic tradition and the confession of true faith[114]. This view is also shared by many other theologians who see the bishop of Rome as the guardian par excellence of the Christian tradition, the supreme judge of the faith, and the link of the unity and communion of the Churches[115].

Even in the first millennium, the Bishop of Rome, as guarantor of faith and unity, had the right and duty to intervene in the internal life of the other Churches and the universal Church in order to protect the integrity of the faith and the unity of the Catholic Communion[116]. The primacy of the Pope as guarantor of the faith is evident in the practice of appealing to Rome in some cases of disputes, even from the East. By his decision, the Bishop of Rome intervened in the affairs of other Churches when such appeals were made[117]. The Bishop of Rome also intervened in cases of serious

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[114] Cf. Y. Congar, "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", in *L'Episcopat et l'Eglise universelle* (*Unam Sanctam* 39), Paris 1962, 234-235; *Ministères et communion ecclésiale*, Paris 1971, 98-99;"La Chiesa è apostolica", in J. Feiner e M. Löhrer (edd.), *Mysterium salutis* VII, Brescia 1972, 706; "Autonomie et pouvoir central", 137 et 142-143.

[115] P. P. Joannou, "Pape, concile et patriarches", 526 and 520-540; E. Lanne, "L'Eglise locale et l'Eglise universelle", in *Irénikon* 43 (1970) 498; "Il Servizio di communione tra le Chiese cattoliche romane", in *Concilium* 8 (1975) 128-129; G. Greshake, "Die Stellung des Protos", 25; G. Alberigo, "Per un papato rinnovato a servizio della Chiesa", in *Concilium* 8 (1975) 24 & 28-38; W. Kasper, "Ciò che permane e ciò che muta nel ministero petrino", in *Concilium* 8 (1975) 57-58; J. J. Von Allmen, "Ministero papale ministero di unità", in *Concilium* 8 (1975) 138; P. Batiffol, *Cathedra Petri,* 28; G. Dejaive, "Puet-on concilier le collège épiscopal et primauté?", in *La Collégialté Episcopale* (*Unam Sanctam* 52), Paris 1965, 295-300; V. Peri, "La synergie entre le pape et le concile oecuménique", 180-181; G. Thils, "Papauté et épiscopat, harmonie et complémentarité", in R. Bäumer & H. Dolch (edd.), *Volk Gottes*, Freiburg-Basel-Wien 1967, 55-63; J.-M. R. Tillard, *Eglise d'Eglises: l'ecclésiologie de communion*, Paris 1987, 324 et 328; *L'évêque de Rome*, 203-235; "Presence of Peter in the Ministry of the Bishop of Rome", in *One in Christ* 2 (1991) 101-105.

[116] Cf. Y. Congar, "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 234; "Le pape come patriarche d'occident" 379; V. Parlato, *L'ufficio patriarcale*, 44-51; J.-M. R. Tillard, *L'évêque de Rome* , 207-235.

[117] L. Hertling, *Communio, Church and Papacy,*70-76; P. L'Huillier, "Collégialité et primauté", 341; P. P. Joannou, "Pape concile et patriarches", 521; Y. Congar, "Church Structures and Councils", 230; C. Vogel, " Unité de l'Église et

disturbances or serious canonical and liturgical disorders in order to restore peace, unity and harmony in the Church[118]. In short, the Bishop of Rome was the defender and guarantor of the faith and unity as well as *bonum commune* of the Church, its *summus iudex* and arbiter, the indispensable condition for the ecumenicity of the councils and the authenticity of their doctrinal decisions. As guarantor of the true faith and Catholic communion, the Bishop of Rome intervened in the affairs of the Eastern patriarchates only when it was necessary to protect the true faith and morals, or to restore peace and harmony in the case of serious canonical disorders, or to make his decision when appeals were made to Rome.

3.3.5. Primacy of the Bishop of Rome and the Canonical Autonomy of Eastern Patriarchates

Wilhelm De Vries, who has conducted many rigorous scholarly studies on the origins of the patriarchs and their relationship with Bishop of Rome, identifies the canonical autonomy of the patriarchs in the first millennium as follows:

> 1) The East freely elected its own patriarchs and bishops as well as organized its own dioceses, either establishing new ones or raising their rank; 2) the East itself regulated its liturgy and canonical legislation; 3) the East itself regulated the discipline of the clergy and laity[119].

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pluralité des formes historiques d'organisation", 633-635; I. Ortiz de Urbina, *Nicée et Constantinople*, 216. Examples of appeals from the Eastern Churches: St. John Chrysostom (*ARP*, nn. 27-28 & Appendix 3), Flavian of Constantinople (*ARP*, no. 89 & Appendix 11-12), Eutichus (*ARP*, Appendix 10), Eusebius Doryleor (*ARP*, Appendix 13); Theodoretus the Syrian (*ARP*, Appendix 14); Patriarch Ignatius, adversary of Photius (*ARP*, Appendix 38). For more information about appeals of Orientals to the bishop of Rome: H. Leclercq, "Notes pour l'histoire du droit d'appel", 1238-1259; P. Batiffol, *Cathedra petri*, 215-248; A. Fortescue, *The Orthodox Eastern Church*, 67-73.

[118] For examples of the intervention of the bishop of Rome in cases of canonical disorder, *ARP,* nn. 11, 121, 136, 161-162, 167, 175, 217, 240, 290, 311-312, 320-322, etc. Cf. also W. De Vries, La S. Sede ed i patriarcati", 324-325; *Rom und die Patriarchate des Ostens*, 21-22.

[119] W. De Vries, "La S. Sede ed i patriarcati cattolici d'Oriente", 318 (my own translation). He expressed almost the same idea also in other works: "The Origin of the Eastern Patriarchates", 66; *Rom und die Patriarchate des Ostens*, 19-

Many other scholars who have scientifically studied the relations between the Eastern Patriarchates and Rome in the first millennium have come to the same conclusions regarding the canonical autonomy of the Eastern Patriarchates[120].

The synod of each patriarchal Church elected the patriarch and bishops without any intervention from the Bishop of Rome. During the entire first millennium, there was not a single case in which a patriarch, metropolitan, or bishop was appointed directly by the Bishop of Rome. His role in the election of patriarchs usually consisted in a letter of reply to the synodal letter by which the elected person informed him of the event of the election. The Bishop of Rome expressed his joy at the election, congratulated the elected one, and in this way recognised the legitimacy of the election; thus, the new Patriarch entered into communion with the Pope without the need for any further legal act[121]. Accordingly, one became patriarch

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22; "Die Entstehung der Patriarchate des Ostens", 339-366. The German Jesuit priest Wilhelm De Vries was professor of Church history at the Pontifical Oriental Institute in Rome.

[120] I. Žužek, "Animadversiones quaedam in decretum de Ecclesiis orientalibus catholicis concilii Vaticani II", in *Periodica* 55 (1966) 276-278; "Oriental Canon Law: Survey of Recent Developments", in *Concilium* 5 (1965) 70 & 72; C. Gallagher, "The Concept of 'Protos' in the Eastern Catholic Churches", 105-106; H. Marot, "The Primacy and the Decentralization of the Early Church", in *Concilium* 1 (1965) 13-14; H. J. Schulz, "Dialogue with the Orthodox", 68-69; V. Parlato, *L'ufficio patriarcale,* 65-68; O. Kéramé, "Les chaires apostoliques et rôle des patriarcats", 266-268; L. Laham, "Le patriarcat d'Antioche au premier millénaire", 122-128; W. F. Macomber, "The Authority of the Catholicos-Patriarch of Seleucia-Ctesiphon", 181-196; M. J. Le Guillou, "L'experience orientale de la collégialité épiscopale", 174; M. M. Wojnar, "Decree on Oriental Catholic Churches", in *The Jurist* 25 (1965) 196-200; J. Chiramel, *The Patriarchal Churches in the Oriental Code*, Alwaye 1992, 32-76; P. K. Medawar, "De la sauvegarde des droits de l'Eglise orientale", in *Proche-Orient Chretién* 9 (1959) 224; J. Hoeck, *Primum Regnum Dei, Die Patriarchalstruktur,* 276-278.

[121] Cardinal Acacius Coussa describes the procedure as follows: "Ab exordiis usque ad annum 1837 quo S. C. de P. F. decretum de hac re edidit, Patriarchae legitime electi plenam potestatem patriarchalem exercebant, nulla, ex parte confirmationis pontificae existente delimitatione. Unde ne fieri potest quaestio de eorum actum validitate. De pacifice et canonice paracta electione Romani Pontifices gaudium exprimebant, quod synodi electoralis Patres peragerant agnoscebant, et cum electo gratulabantur". *Epitome praelectionum de iure ecclesiastico orientali*, vol. I, Grottaferrata 1943, 248 (n. 237). For similar letters of Popes expressing communion, see *Acta Romanorum Pontificum: A s. Clemente I*

by election and not by confirmation by the Pope. It is noteworthy that the elected one notified not only the Pope but also other patriarchs of his elevation to the patriarchal office and asked for their communion[122]. The expression of mutual communion, especially with the Bishop of Rome, was crucial because it guaranteed the orthodoxy of faith and validity of the canonical election. The Pope could refuse communion to those elected, but only if the invalidity of the election or the lack of Catholic faith was proved[123].

The metropolitans and the other bishops of the patriarchates remained in communion with the Bishop of Rome and thus with the universal Church through their patriarchs. Only the patriarchs communicated their election to the Bishop of Rome and received from him a response that ensured their belonging to the Catholic communion. Therefore, one of the main functions of the patriarchs was to secure the communion of all the bishops of their patriarchates with the Bishop of Rome[124].

In the first millennium, the first patriarch of Rome did not interfere with the legislative, judicial, and electoral autonomy of the other patriarchates. In other words, the Bishop of Rome, the first among the patriarchs, exercised patriarchal authority only in the Western Church and not in the Eastern patriarchates, limiting himself to fulfilling the functions of universal primatial authority in the East.

(an c. 90) ad Coelestinum III (+1198), collegit A. Tamntu (*Fonti,* Series III, vol. 1), Typis Polyglottis Vaticanis 1943, nn. 57, 59, 71, 103, 131, 140, 149, 151, 163, 223, 369.

[122] Cf. W. De Vries, La S. Sede ed i patriarcati", 319; *Rom und die Patriarchate des Ostens*, 18; "The Origin of Eastern Patriarchates", 55-59; V. Parlato, *L'ufficio patriarcale*, 67 and 103-107; H. J. Schulz, "The Dialogue with the Orthodox", 69; H. Marot, "The Primacy and the Decentralisation" 14; M. M. Wojnar, "Decree on the Oriental Catholic Churches", 199.

[123] For examples of denial of communion see *Acta Romanorum Pontificum,* nn. 176, 177, 226, 290, 308, 316. Cf. also W. De Vries, La S. Sede ed i patriarcati", 320; *Rom und die Patriarchate des Ostens*, 20.

[124] Cf. W. De Vries, "The College of Patriarchs", 37.

3.3.6. Recognition of the Primacy of the Bishop of Rome in Orthodox Ecclesiology

The first position or primacy of the Bishop of Rome was established by the ecumenical councils of the undivided Church and, therefore, can only be accepted by the Orthodox Churches. In fact, these Churches also generally accept the primacy of the Bishop of Rome as a ministry of unity, communion, and reconciliation at the heart of the universal ecclesial communion of the Church, but they reject the primacy of the supreme power and universal jurisdiction of the Bishop of Rome. About the universal primacy of the Bishop of Rome, the Orthodox theologian Alexander Schmemann explicitly states:

> […] An age-long anti-Roman prejudice has led some Orthodox canonists simply to deny the existence of such primacy in the past or the need for it in the present. But an objective study of the canonical tradition cannot fail to establish beyond any doubt that, along with local 'centres of agreement' or primacies, the Church had also known a universal primacy. The ecclesiological error of Rome lies not in the affirmation of her universal primacy. Rather the error lies in the identification of this primacy with 'supreme power' which transforms Rome into the *principium radix et origo*[125] of the unity of the Church and of the Church herself. This ecclesiological distortion, however, must not force us into a simple rejection of universal primacy. On the contrary it ought to encourage its genuinely Orthodox interpretation[126].

According to him "the essence and purpose of universal primacy is to express and preserve the unity of the Churches in faith and life, to express and preserve the unanimity of all Churches; to keep them from isolating themselves into ecclesiastical provincialism, loosing the Catholic ties, separating themselves from the unity of life. It means ultimately to assume the care, the *sollicitudo* of the Churches,

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[125] Here he provides reference as follows: Encycl. S. Offic. *Ad Episcopos Angliae*, 16 Sept. 1864, in *Denzinger Banwart*, ed. 10, n. 1686.

[126] A. Schmemann, "La notion de primauté", 141; English translation: "The Idea of Primacy in Orthodox Ecclesiology", in *The Primacy of Peter*, London 1963, 48. For almost same idea about universal primacy, cf. P. L'Huillier, "Collégialité et primauté", 338; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale", 175.

so that each one of them can abide in that fullness which is always the *whole* Catholic tradition and not any 'part' of it"[127]. In general, the Orthodox Churches accept the primacy of the Bishop of Rome as the elder brother and *primus inter pares* within the College of Bishops, presiding in love with a universal responsibility and an all-encompassing pastoral concern, but they affirm that they do not accept a Roman Pontiff endowed with a universal supreme ordinary jurisdiction and placed above the College of Bishops with the authority to confirm or approve even the decisions of ecumenical councils[128].

Recent dialogues with the Orthodox Churches further demonstrate that they too acknowledge the fact that Rome was recognized as the first see in the first millennium and that the Bishop of Rome was "the protos among the patriarchs"[129] They also recognize the need for a ministry of unity and communion on a universal level in an increasingly globalised world, in order to effectively fulfil the mission of the Church[130].

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[127] A. Schmemann, "La notion de primauté", 142-143; "The Idea of Primacy", 49.

[128] Cf. K. Ware, "Primacy, collegiality and the People of God", in *Eastern Ecclesiastical Review* 3 (1970) 18-27; N. Arseniev, "The Second Vatican Council's Constitution 'De Ecclesia'", in *SVTQR* 9 (1965) 21-22; J. Meyendorff, "Vatican II: A Preliminary Reaction", in *SVTQR* 9 (1965) 32-33; *L'Eglise orthodoxe hier et aujourd'hui,* Paris 1969, 171-172; *Orthodoxie et catholicité*, 149; S. Harkianakis, "Può avere un senso un servizio di Pietro nella Chiesa? Risposta greco-ortodosso", in *Concilium* 4 (1971)153-160; P. Evdokimov, "Può avere un senso un servizio di Pietro nella Chiesa? Risposta Russo-ortodossa", in *Concilium* 4 (1971) 161-166; J. H. Erickson, "Common Comprehension of Christians concerning Autonomy and Central Power in the Church in View of Orthodox Theology", in *Kanon* 4 (1980) 105-111; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale" 174-181.

[129] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 66-71 (nos. 89-98).

[130] Dicastery for Promoting Christian Unity, *The Bishop of Rome: Primacy and Synodality*, 63-65 (nos. 84-87).

4. Relationship between Primacy and Synodality

The examination of the ancient canons clearly demonstrates the primatial authority at the various levels of ecclesiastical organization, which gives the bishops of some Churches special powers over the other Churches. However, primatial authority in no way impedes the synodal governance of the Churches but rather guarantees their smooth functioning. In fact, the synods cannot function properly if there is no one to convene them and ensure their functioning according to the discipline of the Church. Therefore, primacy is not a contradiction to the conciliar principle, but a necessity of conciliarity. In fact, without primacy, neither councils nor synods are possible. According to Orthodox theologian Nicholas Afanassieff, the conciliar principle cannot be set off against primacy. The council does not exclude primacy but presupposes it. Councils cannot assemble automatically, but must be convened by the head of the province–provincial synod; head of the patriarchate–patriarchal synod; head of the universal Church–ecumenical synod. If there had been no heads in the autocephalous Churches, there could have been no councils; otherwise, anarchy would have prevailed, since every bishop would have thought he had the right to convene councils. Therefore, the conciliar institution presupposes the permanent heads at the various levels of ecclesiastical life[131]. Regarding the relationship between primacy and conciliarity, Cardinal Duprey writes:

> The authority is the same, whether exercised by all or by the one who is their head. Now this authority exists for a function, which is to safeguard and give expression to the conciliar principle, which is communion between the Churches, by preventing local Churches becoming isolated. It exists to maintain the bonds of Catholicity and to safeguard the fullness of life within each Church. The purpose of this authority is that each and every Church should live with and through the others, for it is this vital interpenetration that constitutes

[131] Cf. N. Afanassieff, "L'Eglise qui préside dans l'amour", in *La primauté de Pierre dans l'Eglise orthodoxe,* Neuchtel 1960, 19-20; "The Church which Presides in Love", in *The Primacy of Peter*, London 1963, 67-68

the mystery of the Body of Christ, which is the fullness of him who fills all in all[132].

The Agreed Orthodox-Catholic Statement on Conciliarity and Primacy in the Church, issued in 1989 by the Orthodox-Roman Catholic Consultation in the United States of America clearly expresses the relationship between conciliarity and primacy:

> Primacy – whether that of a metropolitan within his province, or that of a patriarch or presiding hierarch within a larger region – is a service of leadership that has taken many forms throughout Christian history, but that always should be seen as complementary to the function of the synods. It is the primate (protos) who convenes the synod, presides over its activities, and seeks, together with his colleagues, to assure its continuity in faith and discipline with the apostolic Church; yet it is the synod which, together with the primate, gives voice and definition to the apostolic tradition. It is also the synod which, in most Churches, elects the primate, and assists him in his leadership. and holds him to account for his ministry in the name of the whole Church (*Apostolic canons* 34)[133].

The Dicastery for Promoting Christian Unity attests: "Theological dialogues on the question of primacy have increasingly demonstrated that *primacy and synodality* are not two opposing ecclesial dimensions, but rather that they are two mutually constitutive and sustaining realities, and therefore *should be addressed together*"[134].

According to the genuine common tradition of the Church, primacy at various levels does not destroy dynamism and synodal vitality in the Church. Rather, it can be said that the authority of the head or *protos* is a primacy of *diakonia*, a primacy of service to the

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[132] P. Duprey, "The Synodical Structure", 167. Cf. also "Brief Reflections on the Title *Primus Inter Pares*", in *One in Christ* 10 (1974) 10-12; the same idea can also be found in A. Schmemann, "La notion de primauté", 143; N. Afanassieff, "L'Eglise qui préside dans l'amour", 19-21.

[133] "Agreed Orthodox-Catholic Statement on Conciliarity and Primacy", in *Sobornost* 12 (1990) 88-89. The Consultation brings together Orthodox theologians appointed by the Standing Conference of Canonical Orthodox Churches and Catholic theologians appointed by the National Conference of Catholic Bishops.

[134] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", 119 (no. 5).

function of synodality. It is the unfolding of a function that protects synodal life, expresses communion among local Churches and their bishops, prevents the isolation of local Churches, strengthens Catholic communion, and is a guarantee of the fullness of ecclesial life at the heart of each local Church. This authority is destined to make possible the presence of all in each Church and the presence of each in all. The *protos*, therefore, has a power in the structure of the community that makes possible the effective activity of synods[135].

According to the common tradition of the Church, there is a fundamental and essential equality of all bishops in the episcopal consecration. Therefore, the *protos* or head, whether metropolitan or patriarch, is a bishop canonically elected and consecrated for a determined see, and he also has a diocese or eparchy in which he officiates like all other bishops[136].

All bishops are successors of the apostles and share equally in the high priesthood of Christ. Therefore, all bishops are equal with regard to their priesthood. Some of them have primacy and special prerogatives because they were canonically elected and consecrated to certain sees that were respected by all of Christendom because of their special importance due to their apostolic origin, their cultural and political preeminence, or their high status as mother Churches. Accordingly, these bishops (*protos*) are the first among equals (*primi inter pares*) and have the prominent position of first brother in relation to the other bishops of the province or patriarchate. This position does not change the nature of episcopal status, nor does it confer on primates higher priestly rights or prerogatives deriving

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[135] Cf. D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 242; "L'istituzione patriarcale e sinodale", 248-249.

[136] Cf. K. Mörsdorf, "Die hierarchische Struktur der Kirchenverfassung", *Seminarium* 2 (1966) 407; Y. Congar, "Le pape comme patriarche d'occident: approche d'une réalité trop négligée", in *Istina* 28:4 (1983) 387. The Pope is also a bishop from the point of view of sacrament, in spite of the fact that he is successor of St Peter. Pope Francis, *Episcopalis communio* (apostolic constitution), Vatican City 2018, no. 10; cf. also E. Lanne, "L'Eglise locale et l'Eglise universelle", 498-499; K. Rahner und J. Ratzinger, *Episcopat und Primat*, Freiburg-Wasel-Wien 1961, 28-29; J. D. Zizioulas, *Being as communion*, 252; D. Salachas, "L'istituzione patriarcale e sinodale", 244-245.

from their priesthood[137]. However, these primates do enjoy some special powers and prerogatives, though they do not emanate from their priesthood, over other bishops, as they have been sanctioned by the ecumenical councils, canon law, authentic traditions and legitimate customs. In summary, the office of primate is a service, namely a ministry of unity and communion.

Conclusion

In this study, a brief investigation has been carried out on the origin, development and canonical recognition of the principles of synodality and primacy in the first millennium. According to the common tradition of the Church, synodality manifested itself in various forms: provincial synods, patriarchal or general synods, and ecumenical councils. Corresponding to the three levels of synodality, the primacy has also been consolidated on three levels: metropolitan, patriarch, and the Pope of Rome. The proper functioning of primacy and synodality in balance brings about unity, harmony, and communion in the Churches and renders glory to the Most Holy Trinity, the mystery of perfect communion and ontological synodality.

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[137] Cf. P. Rodopoulos, "Ecclesiological Review of the Thirty-Fourth Apostolic Canon", 95-99; cf. also P. Duprey, "The Synodical Structure", 174-175; "Brief Reflections on the Title "Primus Inter Pares", 6-7.

Chapter Three

CONSOLIDATION OF ROMAN PRIMACY IN THE SECOND MILLENNIUM WITH SUPREME POWER AND UNIVERSAL JURISDICTION

Introduction

In the previous chapter on primacy and synodality according to the common tradition of the Church in the first millennium I have set forth the synergetic balance between primacy and synodality in that epoch which enabled the realisation of the Catholic Church as a communion of the Western and Eastern Churches. This chapter examines how, in the particular historical, socio-political, theological and ecclesial context of the second millennium, the synergy between Roman primacy and synodality was lost through the excessive consolidation of the former, which attributed supreme power and universal ordinary jurisdiction to the Roman Pontiff, who was solely dependent on God, from whom he received all authority and full power. This chapter appraises the evolution of Roman primacy up to the Second Vatican Council, which paved the way for the rediscovery of collegiality and synodality. Since it is impossible to cover the development of primacy comprehensively in a chapter of this kind, only important events and documents will be considered.

1. Historical Context in the Second Millennium

The consolidation of Roman primacy in the second millennium may also be evaluated in the particular ecclesiastical context of the period. The Church in the ancient Roman Empire consisted of the five great patriarchates: Rome, Constantinople, Alexandria, Antioch and Jerusalem, according to the order of precedence established by the ecumenical councils. Due to the historical controversies of the first millennium, the communion between the Roman Church and the great patriarchates of the East was interrupted. Finally, the Byzantine Church was also separated with the "Great Schism" in

1054, when the papal delegate Cardinal Humbert of Silva Candida and Patriarch Michael Cerularius promulgated the mutual excommunications[1].

Since the Great Schism of 1054, the universal Catholic Church consisted only of the Latin Church "with the exception of the little-known Maronite Church, structured like a single eparchy under the governance of the Patriarch, assisted by some titular bishops", and of the Greek and Albanian communities that had found refuge in Italy[2]. In summary, after the Great Schism, the universal Catholic Church could be identified with the Western Latin Church until some fractions of the Orthodox Churches restored communion with the Roman Pontiff and formed the so-called "united Churches". This monistic ecclesiastical situation also contributed to the development of monarchical ecclesiology in the West and to the universal primacy of papal jurisdiction.

Since the end of the IX century, the history of the Church was marked by frequent conflicts between the emperors of the "Western Holy Roman Empire" (which was re-established towards the end of the VIII century) and the popes. Initially, the Holy Roman Empire seemed to be the necessary counterpart of the Holy Roman Church, and both were seen as the two arms of God governing the Church and the world, spiritual and temporal affairs. Frequently, however, the two powers came into sharpest conflict, including over the right of investiture or supreme control in the election of bishops and

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[1] For details concerning the "Great Schism", P. Schaff, *History of the Christian Church*, *Volume IV*: *Mediaeval Christianity, A.D. 590-1073*, Grand Rapids 1882, 190-200; T. Ware, *The Orthodox Church*, Baltimore-Maryland 1964, 51-81; *The Cambridge Medieval History, Volume IV: The Eastern Roman Empire (717-1453)*, Cambridge 1923, 112-115; W. De Vries, *Rom und die Patriarchate des Ostens*, 23-31; cf. *Storia della Chiesa* VII*: l'epoca feudale* (888-1057), Cinisello Balsamo (Milano) 1995, 168-202.

[2] I. Žužek, *Understanding the Eastern Code*, Roma 1997, 208 and 275; regarding Maronite Church cf. also A. Coussa, *Epitome praelectionum de iure ecclesiastico orientali*, vol. 1, 184.

abbots. Synods and councils even deposed popes and elected antipopes with the support of emperors[3].

2. Gregorian Reform and the Declaration of Supreme Papal Primacy

The beginning of the development of primacy in the second millennium is inextricably linked to the so-called "Gregorian reform", which began with the election of Pope Gregory VI (1045-1046), culminated with the pontificate of Gregory VII (1073-1085) and was continued by his successors after his death. The popes who governed during this period abolished clerical marriage in the Latin Church, as well as the abuses of lay investiture and simony[4]. The most important aspect of the Gregorian reform, however, is the emphatic affirmation of papal supremacy and infallibility contained in the manuscript *Dictatus Papae* (Papal Dictation), written during the pontificate of Pope Gregory VII in March 1075[5]. The *Dictatus Papae* consists of twenty-seven propositions listing a number of privileges and rights of the Roman Church and the Pope:

> 1) The Roman Church was founded by God alone. 2) The Roman Pontiff alone can rightly be called universal. 3) He alone can depose or reinstate bishops. 4) His legate, even if of a lower rank, is above

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[3] Cf. P. Schaff, *History of the Christian Church, Volume IV,* 160-167, 179-190; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume III: The Church in the Age of Feudalism*, New York 1982, 84-102, 151-157, 247-251.

[4] Cf. G. H. Tavard, "The Papacy in the Middle Ages", in P. C. Empie and T. A. Murphy (eds.), *Papal Primacy and the Universal Church*, Minnesota 1974, 101; *The Cambridge History of Christianity: Early Medieval Christianities, c. 600–c. 1100* (edited by Thomas F. X. Noble and Julia M. H. Smith), Cambridge 2008, 361-362. For details concerning the Gregorian reform: P. Schaff, *History of the Christian Church, Volume V: the Middle Ages, A.D. 1049-1294*, Grand Rapids 1882, 17-40; *Storia della Chiesa* VIII: *La riforma Gregoriana e la riconquista cristiana (1057-1123)*, Cinisello Balsamo (Milano) 1995; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume III,* 351-403.

[5] Cf. C. Balzareti, "Il *Dictatus papae*: un mito scolastico", in *Nuova secondaria* 34/10 (2017) 60-62; G. Langevin, "Synthèse de la tradition doctrinale sur la primauté du successeur de Pierre durant le second Millénaire", in *Il primato del successore di Pietro* (Atti del Simposio teologico – Roma, dicembre 1996), Città del Vaticano1998, 148-149.

> all bishops in a council, and he can render a sentence of deposition against them. 5) The Pope can depose absent bishops (from a council). 6) Among other things, one should not stay in the same house with those excommunicated by him. 7) It is for him (the Pope) alone to make new laws according to the needs of the time, to assemble new congregations, to make an abbey out of a canonry, and on the other hand to divide a rich bishopric and unite the poor ones. 8) He alone may use the imperial insignia. 9) All princes shall kiss the Pope's feet only. 10) His name alone shall be pronounced in the churches. 11) His title is unique in the world. 12) He may be permitted to depose emperors. 13) He may be permitted to transfer bishops if necessary. 14) He has the power to ordain a cleric of any church he wishes. 15) One ordained by the Pope may preside over another church but may not hold a subordinate office; such a one may not receive a higher clerical rank from any other bishop. 16) No synod shall be called "general" without his order. 17) No chapter or book shall be considered canonical without his authority. 18) No judgement rendered by him may be revoked by anyone; he alone can revoke it. 19) He himself shall not be judged by anyone. 20) Let no one dare condemn anyone who appeals to the Apostolic See. 21) To it shall be referred the more important cases of each church. 22) The Roman Church has never erred and will not err for all eternity, as the Holy Scripture testifies. 23) The Roman Pontiff, if canonically elected, is undoubtedly made holy by the merits of St. Peter […]. 24) At his command and with his consent, subordinates may be permitted to bring accusations. 25) He may depose and reinstate bishops without convening a synod. 26) The one who is not at peace with the Roman Church shall not be considered Catholic. 27) He may absolve subjects from their fealty to wicked people[6].

The principles expressed in the *Dictatus Papae* manifest the essence and spirit of the Gregorian reform. The propositions of the *Dictatus* aim to establish absolute papal supremacy. The balance between the secular power (the Empire) and the spiritual authority (the Church) had dominated the West in the first millennium. The

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[6] Città del Vaticano, Archivio Apostolico Vaticnao, *Registrum Vaticanum* 2, fol. 80v-81; photo-reproduction of the original Latin text in *Enciclopedia dei Papi* (autori vari), vol. 2, Roma 2000, 194; also in *Storia della Chiesa* VIII: *La riforma Gregoriana e la riconquista cristiana*, tovola VII-VIII; printed Latin text in Mansi 20, 168-169; English translation is based on F. Henderson, *Select Historical Documents of the Middle Ages*, London 1910, 366- 367.

axiom allowing the Pope to depose emperors destroys the early medieval notion of balance between religious power and civil powers, expressed by the symbol of the "two swords", spiritual and secular. Before the Gregorian reforms, the Church was a decentralized institution, and until the twelfth century, the Bishop of Rome had little authority over the other bishops[7]. About Gregorian reform the International Theological Commission made the following remarkable statement:

> In the Catholic Church, the Gregorian reform and the struggle for the *libertas Ecclesiae* contributed to the affirmation of the Pope's authority as primate. On the one hand, this freed Bishops from subordination to the Emperor but, on the other hand, if not properly understood, it ran the risk of weakening the identity of local Churches[8].

The main theological and canonical doctrines of papal authority that developed in the second millennium are already contained in the propositions of *Dictatus Papae*, which guided the Gregorian reforms: the papal primacy of universal jurisdiction, his personal infallibility, the power to depose and reinstate bishops and emperors, immunity from all judgement, authority over councils, and the right to divide or unite dioceses.

3. Gregory X and the Second Council of Lyons (1272)

Pope Gregory X (1272-1276) convoked the Second Council of Lyons on 31 March 1272, primarily to achieve a reunification with the Greek (Byzantine) Church, in order to strengthen the Church in the context of the conflicts with the German emperors. The Pope wanted to make a treaty with the Byzantine Emperor Michael VIII Palaeologus and unite the Greek and Latin Churches. The Council was held in six general sessions from 7 May to 17 July 1274. At the fourth session of the Council, the union between the Eastern Church and the Latin Church was decided and established, whereby the

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[7] Cf. A. Dulles, *The Catholicity of the Church*, Oxford 1987, 131 and 135-136.

[8] International Theological Commission, *Synodality in the Life and Mission of the Church*, no. 32.

union was based on the agreement of the Greeks to the claims of the Roman Church. The union appears to have been forced by Emperor Michael on the Greek side for his political advantage and failed because the vast majority of the Byzantine population rejected it[9].

At the fourth session of the Council, on 6 July 1274 the so-called "profession of faith of Michael Palaeologus" was read out. It is not a conciliar document, as it was neither discussed in the Council, nor officially promulgated. Emperor Palaeologus simply transcribed into a letter what was prescribed to him by the Pope before the Council and then signed it without any modification. This profession of faith contains the confirmation of the universal Roman primacy as it was understood in the West at the beginning of the second millennium. The relevant part of the text reads:

> The same holy Roman Church also possesses the supreme and full primacy and authority over the universal Catholic Church, which she recognizes in truth and humility to have received with fullness of power from the Lord himself in the person of blessed Peter, the prince or head of the Apostles, of whom the Roman Pontiff is the successor. And as she is bound above all to defend the truth of faith, so too, if any questions should arise regarding the faith, they must be settled by her judgment. Anyone accused in matters pertaining to the forum of the Church may appeal to her; and in all causes within the purview of ecclesiastical enquiry, recourse may be had to her judgement. To her all the Churches are subject; their prelates give obedience and reverence to her. Her fulness of power, moreover, is so firm that she admits the other Churches to share in her solicitude. The same Roman Church has honoured many of those Churches, and especially the patriarchal Churches, with various privileges, its own prerogatives being, however, always observed and safeguarded both in general councils and in some other matters[10].

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[9] Cf. *Decrees of the Ecumenical Councils,* vol. 1, 303-305; *Storia della Chiesa X: La cristianità romana (1198-1274),* Cinisello Balsamo (Milano) 1995, 637-649*;* H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV: From the High Middle Ages to the Eve of the Reformation*, New York 1982, 203-207; W. De Vries, *Rom und die Patriarchate des Ostens,* 47-52.

[10] *Enchiridion symbolorum*, *definitionum et declarationum de rebus fidei et morum*, H. Denzinger (ed.), edizione bilinque a cura di P. Hünermann, Bologna 1996, n. 861; Mansi 24, 71-74; *The Christian Faith in the Doctrinal Documents of*

The profession of faith that Emperor Michael VIII Palaeologus was forced to make reflects many of the propositions contained in the *Dictatus Papae* already cited. It clearly affirms the fullness of papal power, the subjection of all churches to the Roman Church and the papal primacy of jurisdiction. Consequently, patriarchal authority is considered as sharing in the solicitude of the Roman Church and patriarchal powers as conceding privileges.

4. Pope Boniface VIII and the Bull *Unam Sanctam* (1302)

The belief of Pope Boniface VIII (1294-1303)[11] in papal supremacy brought him into frequent conflict with secular rulers and divided Europe into factions that either supported papal supremacy or favoured the separation of Church and State. The most important conflict was between Pope Boniface and the centralist monarch Philip IV the Fair of France (1285-1314) over control of Church revenues and authority over the clergy in France. To bolster his opposition to the papacy, Philip convened an assembly or 'French Parliament' of the three estates in Paris in April 1302, inviting the clergy, nobility, and representatives of the wealthiest cities. The body expressed support for the king, rejected the papal claim to supremacy, and affirmed the independence of the crown from the Church[12]. To counter the king's pretext, Pope Boniface VIII issued the bull *Unam Sanctam* on 18 November 1302, in which he explained and justified the superiority of papal authority over that of the king, referring, among other things, to the theory of the two swords. Given the great importance of this document for the consolidation of the primacy in the second millennium, it is reproduced in full.

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the Catholic Church, Neuner J. and Dupuis J. (eds.), seventh revised and enlarged edition, New York 2001, no. 29.

[11] For the biographical profile of Pope Boniface VIII: *Enciclopedia dei Papi*, vol. 2, 472-493.

[12] Cf. P. Schaff, *History of the Christian Church, Volume VI: the Middle Ages, A.D. 1294-1517,* Grand Rapids 1882, 12-14; *Storia della Chiesa XI: La crisi del Trecento e il papato avignonese (1274-1378),* Cinisello Balsamo 1995, 148-165.

Boniface, Bishop, Servant of the servants of God. For perpetual remembrance.

Urged by faith, we are obliged to believe and to maintain that there is only one, holy, catholic and also apostolic Church. We believe in her firmly and we confess with simplicity that outside of her there is neither salvation nor the remission of sins, as the Spouse in the Canticles (*Song* 6:9) proclaims: "My dove, my perfect one, is the only one, the darling of her mother, flawless to her that bore her", and she represents one sole mystical body whose Head is Christ and God is the head of Christ (1 *Cor* 11:3). In her then is one Lord, one faith, one baptism (*Eph* 4:5). There had been at the time of the deluge only one ark of Noah, prefiguring the one Church, which ark, having been finished to a single cubit, had only one pilot and guide, namely Noah, and we read that, outside of this ark, all that subsisted on the earth was destroyed.

We venerate this Church as one, the Lord having said by the mouth of the prophet: O Lord, 'Deliver my soul from the sword and my life from the power of the dog' (*Ps* 22:20). He has prayed for his soul, that is for himself, heart and body; and this body, that is to say, the Church, he has called one because of the unity of the Spouse, of the faith, of the sacraments, and of the charity of the Church. This is the tunic of the Lord, the seamless tunic, which was not torn but which was cast by lot (*Jn* 19:23-24]. Therefore, of the one and only Church there is one body and one head, not two heads like a monster; that is, Christ and the Vicar of Christ, Peter and the successor of Peter, since the Lord speaking to Peter himself said: "Feed my sheep" (*Jn* 21:17), meaning, my sheep in general, not these, nor those in particular, whence we understand that he entrusted all to him (Peter). Therefore, if the Greeks or others should say that they are not confided to Peter and to his successors, they must confess not being the sheep of Christ, since Our Lord says in John there is "one flock and one shepherd" (*Jn* 10:16). We are informed by the texts of the gospels that in this Church and in its power are two swords; namely, the spiritual and the temporal. For when the Apostles say: "Look, there are two swords" (*Lk* 22:38) that is to say, in the Church, since the Apostles were speaking, the Lord did not reply that there were too many, but enough. Certainly, the one who denies that the temporal sword is in the power of Peter has not listened well to the word of the Lord commanding: "Put your sword back into its place" (*Mt* 26:52). Both, therefore, are in the power of the Church, the spiritual and the material sword, but the former is to be administered *for* the Church but the latter *by* the Church; the former in the hands of the priest; the

latter by the hands of kings and soldiers, but at the will and sufferance of the priest.

However, one sword ought to be subordinated to the other and temporal authority, subjected to spiritual power. For since the Apostle said: "There is no authority except from God and those authorities that exist have been instituted by God" (*Rom* 13:1-2], but they would not be ordained if one sword were not subordinated to the other and if the inferior one, as it were, were not led upwards by the other.

For, according to the Blessed Dionysius, it is a law of the divinity that the lowest things reach the highest place by intermediaries. Then, according to the order of the universe, all things are not led back to order equally and immediately, but the lowest by the intermediary, and the inferior by the superior. Hence, we must recognize the more clearly that spiritual power surpasses in dignity and in nobility any temporal power whatever, as spiritual things surpass the temporal. This we see very clearly also by the payment, benediction, and consecration of the tithes, but the acceptance of power itself and by the government even of things. For with truth as our witness, it belongs to spiritual power to establish the terrestrial power and to pass judgement if it has not been good. Thus is accomplished the prophecy of Jeremias concerning the Church and the ecclesiastical power: "See, today I appoint you over nations and over kingdoms" (*Jer* 1:10) and the rest. Therefore, if the terrestrial power err, it will be judged by the spiritual power; but if a minor spiritual power err, it will be judged by a superior spiritual power; but if the highest power of all err, it can be judged only by God, and not by man, according to the testimony of the Apostle: The spiritual man judges all things and he himself is not judged by anyone (cf. 1 *Cor* 2:15]. This authority, however (though it has been given to man and is exercised by man), is not human but rather divine, granted to Peter by a divine word and reaffirmed to him (Peter) and his successors by the One Whom Peter confessed, the Lord saying to Peter himself, "Whatsoever you bind on earth, will be bound also in Heaven" etc., (*Mt* 16:19). Therefore, whoever resists this power thus ordained by God, resists the ordinance of God (cf. *Rom* 13:2], unless he invents like Manicheus two beginnings, which is false and judged by us heretical, since according to the testimony of Moses, it is not in the beginnings but in the beginning that God created heaven and earth (cf. *Gen* 1:1). Furthermore, we declare, we proclaim, we define that it is absolutely

necessary for salvation that every human creature be subject to the Roman Pontiff[13].

Referring to some biblical passages and interpreting them, Pope Boniface VIII emphasised that there is only one Church and one head, namely the Pope, who is not only the successor of St Peter, as he was generally regarded in the first millennium, but also the Vicar of Christ himself. Therefore, anyone who does not accept the Pope cannot belong to Christ's Church and cannot be saved. In the first millennium, the theory of "two swords" was generally held, which meant a balance between the spiritual power of the Pope and the temporal power exercised by the emperor. According to Boniface VIII, both "swords" are entrusted to the Pope and so that emperors and kings are also subject to papal authority. He believed that all authority comes from God and that the Pope, as the Vicar of Christ, is the supreme embodiment of his will on earth. Emperors and kings derived their right to rule from God and thus from the Pope, to whom every person should also be subject for eternal salvation. In summary, the main purpose of the bull was to establish papal supremacy over emperors and secular rulers who were often in opposition to the Pope.

5. Western Schism, Council of Constance, Conciliarism and the Decline of Papacy (1378-1417)

Boniface VIII was succeeded by Pope Benedict XI (1303-1304), who adopted a conciliatory attitude towards King Philip the Fair of France. After the death of Benedict XI, with the election of the French Pope Clement V (1305-1314) began the Avignon papacy which lasted more than 70 years and included seven French popes: already mentioned Clement V, John XXII (1316-1334), Benedict XII (1334-1342), Clement VI (1342-1352), Innocent VI (1352-

[13] Boniface VIII, Bull *Unam Sanctam,* in *Enchiridion symbolorum*, nn. 870-875; Latin text and a slightly different English translation are found in P. Schaff, *History of the Christian Church, Volume VI,* 17-20; English translation also on https://www.papalencyclicals.net/bon08/b8unam.htm. All biblical citations in our text are taken from the *New Revised Standard Version*.

1362), Urban V (1362-1370) and Gregory XI (1370-1378[14]. The last Avignon Pope Gregory XI, constraint by various political and ecclesiastical circumstances, returned to Rome on 16 December 1377, but died on 27 March 1378[15].

After the death of Pope Gregory XI, the college of cardinals (Roman and Avignon groups) elected two popes in succession: Urban VI and Clement VII and both had successors. Urban remained in Rome while Clement moved to Avignon, and each established his own papal court and college of cardinals. Thus originated what is known in history as the Western Schism or Papal Schism (1378-1417) between rival popes based in Rome and Avignon[16]. The list of popes of the Roman and Avignon lines is given below:

Roman Line	**Avignon Line**
Urban VI (1378-1389)	Clement VII (1378-1394)
Boniface IX (1389-1404).	Benedict XIII (1394-1409).
Innocent VII (1404-1406)	
Gregory XII (1406-1415)[17]	

In response to the Western schism, the theory of conciliarism emerged, a reform movement (centuries XIV-XVI) which assumed that the supreme authority in the Church was the ecumenical

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[14] P. Schaff, *History of the Christian Church, Volume VI,* 28-59; *Storia della Chiesa XI: La crisi del Trecento,* 233-310; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 291-330; L. Pastor, *Storia dei Papi*, vol. 1, Roma 1942, 5-112; *Enciclopedia dei Papi*, vol. 2, 501-561; cf. also *Annuario Pontificio* 2023, 16*-17*; *Annuario Pontificio* 2025, 7.

[15] P. Schaff, *History of the Christian Church, Volume VI,* 60-62; *Storia della Chiesa XI: La crisi del Trecento,* 305-310; L. Pastor, *Storia dei Papi*, vol. 1, 112-117.

[16] P. Schaff, *History of the Christian Church, Volume VI,* 67-69; *Storia della Chiesa XIV/1: La Chiesa al tempo del grande scisma e della crisi conciliare (1378-1449)*, Cinisello Balsamo (Milano) 1997, 32-78; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 401- 416; L. Pastor, *Storia dei Papi*, vol. 1, 118-182.

[17] The official list indicates the popes of the Roman line as legitimate ones and those of the Avignon line as antipopes. Cf. *Annuario Pontificio* 2023, 17*; *Annuario Pontificio* 2025, 17-18; cf. also *Enciclopedia dei Papi*, vol. 2, 593-609.

council, apart from or even opposed to the Pope[18]. In fact, to settle the schism of the popes, the Council of Pisa was convened in 1409, with the participation of several cardinals, bishops, abbots, superiors general of religious orders, theologians and canonists. The Council deposed the rival popes Gregory XII and Benedict XIII and elected a third, Alexander V (1409-1410), who was succeeded by John XXIII (1410-1415)[19]. The deposition of the two aforementioned popes had no legal effect, so that since the Council of Pisa there were three popes who claimed to be the legitimate successor of St Peter.

In this tragic situation of schism and division, the Pisan Pope John XXIII announced the Council of Constance (a city in Germany) on 5 November 1414, with the support of Sigismund, the German King and Holy Roman Emperor (from 1433 until his death in 1437). The aim of the Council of Constance, which lasted about five years (1414-1418), was to eliminate the schism, and to unify and reform the Church[20].

As already indicated, the Western Church was divided into three factions under three different popes at the opening of the Council of Constance: some Christians owed obedience to Gregory XII of the Roman party, others to Benedict XIII of the Avignonesian party, and still others to the Pisan Pope John XXIII. The Council caused the renunciation of both the Roman Pope Gregory XII and the Pisan antipope John XXIII and deposed the Avignonesian antipope Benedict XIII. On 11 November 1417, Martin V was

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[18] Cf. *Decrees of the Ecumenical Councils,* vol. I, 405, 407; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 423-425*; Dictionnaire de Théologie Catholique*, Tome III, Paris 1908, 604.

[19] P. Schaff, *History of the Christian Church, Volume VI,* 77-81; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 417-423; *Storia della Chiesa* XIV/1: *La Chiesa al tempo del grande scisma*, 207-216; L. Pastor, *Storia dei Papi*, vol. 1, 186-201; Mansi 27, 358-366. Obviously the Pisan popes Alexander V and John XXIII are also considered antipopes: cf. *Annuario Pontificio* 2023, 17*; *Annuario Pontificio* 2025, 17-18; *Enciclopedia dei Papi*, vol. 2, 610-618.

[20] P. Schaff, *History of the Christian Church, Volume VI,* 82-92; *Storia della Chiesa* XIV/1*: La Chiesa al tempo del grande scisma*, 216-251.

elected pope, ruling from Rome. He was recognised by all as the rightful Pope, and thus ended the Western Schism[21].

From the historical facts described above, it is clear that the principle of conciliarity (conciliarism) reached its peak at the Council of Constance, which even forced two popes to resign, deposed one and elected another. Moreover, in connection with several claimants to the papal throne, the Council explicitly asserted its supremacy even over the Pope as follows:

> First it declares that, legitimately assembled in the Holy Spirit, constituting a general council and representing the catholic church militant, it has power immediately from Christ; and that everyone of whatever state or dignity, even papal, is bound to obey it in those matters which pertain to the faith, the eradication of the said schism and the general reform of the said church of God in head and members[22].

Another important decree of the Council, known in history as *Frequens*, was promulgated on 9 October 1417. It proposed the frequent convocation of councils to govern the universal Church and to resolve any eventual papal schism. The decree states:

> The frequent holding of general councils is a pre-eminent means of cultivating the Lord's patrimony. It roots out the briars, thorns and thistles of heresies, errors and schisms, corrects deviations, reforms what is deformed and produces a richly fertile crop for the Lord's vineyard. Neglect of councils, on the other hand, spreads and fosters the aforesaid evils. […] For this reason we establish, enact, decree and ordain, by a perpetual edict, that general councils shall be held henceforth […][23].

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[21] Cf. *Decrees of the Ecumenical Councils,* vol. I, 403; P. Schaff, *History of the Christian Church, Volume VI,* 93; *Storia della Chiesa* XIV/1*: La Chiesa al tempo del grande scisma*, 245-276; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 448-473*;* L. Pastor, *Storia dei Papi*, vol. 1, 204-216; all the acts, decrees and decisions of the council in Mansi 27, 529-1240.

[22] Council of Constance, sessions 5 (6 April 1415), Decree *Haec sancta*, in *Decrees of the Ecumenical Councils,* vol. I, 409; *Conciliorum oecumenicorum decreta*, 409; Mansi 27, 590.

[23] Council of Constance, session 39 (9 October 1417), in *Decrees of the Ecumenical Councils,* vol. I, 438-439; *Conciliorum oecumenicorum decreta*, 438-439; Mansi 27, 1159.

The obligatory convocation of a general council was proposed as the only solution to eradicate a possible future schism, so that "two or more persons claim to be supreme pontiffs"[24]. In addition, the Council prescribed the Pope-elect to make a profession of faith before his electors prior to the publication of the election, which included the explicit recognition of the councils:

> […] I will firmly believe and hold the catholic faith, according to the traditions of the apostles, of the general councils and of the other holy fathers, especially of the eight holy universal councils […] as well as of the general councils at the Lateran, Lyons and Vienne, and I will preserve this faith unchanged to the last dot and will confirm, defend and preach to the point of death and the shedding of my blood […][25].

In this way, the Council of Constance established the supreme principle of conciliarity, according to which even the Roman Pontiff is subject to the ecumenical or general council. Norman P. Tanner observes that objection has been made to the decrees defining the power of the councils "on the grounds of the primacy of the Roman Pontiff. There is no doubt, however, that in enacting these decrees there was solicitude and care to choose the true and sure way ahead in order to heal the schism, and this could only be done by the authority of a council"[26]. Even the International Theological Commission admits:

> At the end of the Middle Ages, a unique situation came about in the Western Schism (1378-1417), when there were simultaneously two, and later three, people claiming the title of Pope. The Council of Konstanz (1414-1418) solved this intricate question by applying emergency canon law foreseen in medieval canonical thinking, and went on to elect the legitimate Pope. In this situation, however, the conciliarist idea developed, whose aim was to impose a permanent council over and above the primatial authority of the Pope. The

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[24] Council of Constance, session 39 (9 October 1417), in *Decrees of the Ecumenical Councils,* vol. I, 439-440; *Conciliorum oecumenicorum decreta*, 439; Mansi 27, 1159-1160.

[25] Council of Constance, session 39 (9 October 1417), in *Decrees of the Ecumenical Councils,* vol. I, 442; *Conciliorum oecumenicorum decreta*, 442; Mansi 27, 1161-1162.

[26] *Decrees of the Ecumenical Councils,* vol. I, 403.

> theological justification and practical application of conciliarism would be judged not to be in conformity with Tradition […][27].

Even though the council of Constance gave rise to the theory of conciliarism, it terminated the schism of three popes and re-established unity, communion and harmony in the Church.

6. Council of Florence and the Definition of Papal Primacy (1439)

This council is entitled Basel-Ferrara-Florence-Rome because it was opened in the Swiss city of Basel on 25 July1431, by the papal legate appointed by Pope Martin V shortly before his death on 20 February 1431, and after being moved to the Italian cities of Ferrara and Florence by his successor, Pope Eugenius IV (1431-1447), it was concluded in Rome on 7 August 1445. The council in Basel was marked by bitter conflicts between most of the participants and Pope Eugenius, who moved the Council to Ferrara (1438) and then to Florence (1439) against the former's will, also to facilitate the participation of the Eastern Churches[28].

The Byzantine Greek bishops and theologians attended the council in Ferrara since 9 April 1438. The Byzantine delegation was headed by Emperor John VIII Palaeologus and Patriarch John of Constantinople, although the Patriarch died before the signing of union. Emperor John VIII was eager for a settlement with the Western Church, in order to obtain military aid against the Turkish invaders, while Pope Eugenius looked for the support of the Eastern Churches against the "rebellious Council of Basel" which continued even after the official transfer (last session in 1449)[29]. Because of

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[27] International Theological Commission, *Synodality in the Life and Mission of the Church*, no. 34.

[28] *Decrees of the Ecumenical Councils,* vol. I, 453; N. P. Tanner, *The Councils of the Church*: *A Short History*, 71; J. Gill, *The Council of Florence*, Cambridge 1959, 46-108; *Dictionnaire de Théologie Catholique*, Tome II, Paris 1905, 113-129; Tome VI, Paris 1920, 24-50. For documentation: Mansi, volumes 29-32; G. Hofmann (ed.), *Concilium Florentinum documenta et scriptores* (Pontificium Institutum Orientalium Studiorum), Romae 1940.

[29] N. P. Tanner, *The Councils of the Church*: *A Short History*, 72; J. Gill, *The Council of Florence*, 109-115.

the outbreak of plague, the Council was transferred to Florence on 10 January 1439, where the decree of union with the Greek Church, known as *Letentur Caeli* was approved in the session of 6 July 1439. Pope Eugenius IV promulgated the decree with "the agreement of our most dear son John Palaeologus, illustrious emperor of the Romans, of the deputies of our venerable brothers the patriarchs and of other representatives of the eastern Church"[30]. Among other things, agreement was also reached on the primacy of the Roman Pontiff, as the decree attests:

Item definimus sanctam apostolicam sedem et Romanum pontificem in universum orbem tenere primatum, et ipsum pontificem Romanum successorem esse beati Petri principis apostolorum et verum Christi vicarium totiusque ecclesiae caput et omnium christianorum patrem ac doctorem existere, et ipsi in beato Petro pascendi, regendi ac gubernandi universalem ecclesiam a domino nostro Iesu Christo plenam potestatem traditam esse, quemadmodum etiam in gestis oecumenicorum conciliorum et in sacris canonibus continetur.	We also define that the holy Apostolic See and the Roman Pontiff hold the primacy over the whole world and the Roman Pontiff is the successor of blessed Peter, the prince of the apostles, and that he is the true vicar of Christ, the head of the whole Church and the father and teacher of all Christians, and to him, in blessed Peter has been given by our Lord Jesus Christ the full power of tending, ruling and governing the whole Church, as is contained also in the acts of the ecumenical councils and in the sacred canons[31].

The doctrine of Pope's universal primacy of "full power", as taught in the West during the second millennium is inserted in the decree, but with the phrase "as is contained also in the acts of ecumenical councils and in the sacred canons", perhaps to satisfy the Eastern Christians. This statement seems to indicate that the primacy would be exercised in accordance with the acts of the ecumenical councils and the sacred canons of the first millennium. Like the agreements on reunion with other Eastern Churches reached at the Council of

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[30] Eugenius IV, decree or bull *Letentur Caeli*, in *Decrees of the Ecumenical Councils,* vol. I, 523-528; *Conciliorum oecumenicorum decreta*, 523-528.

[31] *Decrees of the Ecumenical Councils,* vol. I, 528; *Conciliorum oecumenicorum decreta*, 528; *The Christian Faith*, no. 809. In the English translation of Tanner the important phrase "by our Lord Jesus Christ", is missing.

Florence, the decree on reunion with the Greek Byzantine Church failed, but the agreement on dogmatic and disciplinary issues provided a solid foundation for further discussion and future reunions[32].

7. The Fifth Lateran Council (1512-1517) and Further Consolidation of Papal Primacy

Since the popes refused to convoke general councils in accordance with the provisions of the Council of Constance on the frequent convocation of councils, some cardinals, officially supported by Louis XII, King of France, had assembled a quasi council at Pisa in May 1511, which purported to implement these provisions[33]. Pope Julius II (1503-1513) then convened the Fifth Lateran Council (1512-1517) to condemn and reject the "schismatic" Council of Pisa. There were twelve sessions, five of which were held during the pontificate of Pope Julius II. After his death on 21 February 1513 the remaining 7 sessions were held after the election of his successor, Pope Leo X (1513-1521), with three main goals: 1) achieving general peace among Christian rulers; 2) Church reform; 3) defending the faith and eradicating heresy[34].

In the eleventh session of the Council held on 19 December 1516, Pope Leo X promulgated the bull *Pastor Aeternus* "with the approval of the council", which is important for the consolidation of the universal primacy of Rome. The bull states that when Jesus "was about to depart form the world to the Father, he established Peter

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[32] *Decrees of the Ecumenical Councils,* vol. I, 453; N. P. Tanner, *The Councils of the Church*: *A Short History*, 72; J. Gill, *The Council of Florence*, 349-387.

[33] Cf. *Storia della Chiesa* XV: *La Chiesa e il Rinascimento (1449-1517)*, Cinisello Balsamo (Milano) 1995, 212-215; F. X. Kraus, "Medicean Rome", in A. W. Ward, G. W. Prothero and S. M. Leathes (eds.), *The Cambridge Modern History*, Volume 2, Macmillan 1907, 29; L. Pastor, *Storia dei Papi*, vol. III, Roma 1942, 776-777 & 787.

[34] Cf. *Decrees of the Ecumenical Councils,* vol. I, 593-594; F. X. Kraus, "Medicean Rome", 30-31; *Storia della Chiesa* XV: *La Chiesa e il Rinascimento*, 218-222, 253-255; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV,* 557-565.

and his successors as his own representatives on the firmness of a rock. It is necessary to obey them, as the book of Kings testifies (*Dt* 17, 12), so that whoever does not obey, incurs death"[35]. In the bull the Pope also affirmed the authority of the Roman Pontiff over the council: "[…] it is clearly established that only the contemporary Roman Pontiff, as holding authority over all councils, has the full right and power to summon, transfer and dissolve councils"[36]. Then, the Pope confirmed the bull *Unam sanctam* of Pope Boniface VIII concerning papal supremacy and the necessity of subjection to the Roman Pontiff for salvation as follows:

> […] Moreover, since subjection to the Roman Pontiff is necessary for salvation for all Christ's faithful, as we are taught by the testimony of both sacred scripture and the holy fathers, and as is declared by the constitution of Pope Boniface VIII of happy memory, also our predecessor, which begins *Unam sanctam*, we therefore, with the approval of the present sacred council, for the salvation of the souls of the same faithful, for the supreme authority of the Roman Pontiff and of this holy see, and for the unity and power of the church, his spouse, renew and give approval to that constitution […][37].

In short, the Fifth Lateran Council put an end to the theory of conciliarism and fully restored the supreme authority of the Pope over the ecumenical councils and the universal Church.

8. Pope Pius IX and the First Vatican Council: the Dogmas of Papal Primacy and Infallibility (1870)

Giovanni Maria Mastai Ferretti, who later became Pope Pius IX, was born on 13 May 1792 in Senigallia (Italy). After completing his secular and theological studies Mastai was ordained a priest on 10 April 1819. He successfully exercised the priestly ministry for about 8 years and then Pope Leo XII appointed the 35-year-old

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[35] Fifth Lateran Council, bull *Pastor Aeternus*, in *Decrees of the Ecumenical Councils,* vol. I, 640; *Conciliorum oecumenicorum decreta*, 640.

[36] Fifth Lateran Council, bull *Pastor Aeternus*, in *Decrees of the Ecumenical Councils,* vol. I, 642; *Conciliorum oecumenicorum decreta,* 642.

[37] Fifth Lateran Council, bull *Pastor Aeternus*, in *Decrees of the Ecumenical Councils,* vol. I, 643-644; *Conciliorum oecumenicorum decreta,* 643-644.

Mastai Ferretti Archbishop of Spoleto in 1827. In 1828 he was transferred to the Diocese of Imola, appointed cardinal *in pectore* on 23 December 1839 and was publicly announced as cardinal-priest of *Santi Marcellino e Pietro* on 14 December 1840[38]. After the death of Pope Gregory XVI (1831-1846) on 16 June 1846, the Conclave elected the then 54-year-old Mastai Ferretti as Pope, who assumed the name Pius IX[39].

8.1. Political Background: Gradual Loss of Temporal Power

The temporal sovereignty of the Pope over some territories, which gradually began in the eighth century and was consolidated over time, was considered necessary for the autonomy of the Church and the freedom of the Pope in the exercise of his primatial power[40]. Since his election in 1846, Pope Pius IX was also sovereign ruler over some 3 million subjects in the Papal States, which comprised most of the present-day Italian regions of Lazio (including Rome, of course), Marche, Umbria and Romagna, as well as parts of Emilia[41]. The politically most important event during the Pontificate of Pius IX was the loss of the Papal States through the unification of Italy with the gradual annexation of various Italian kingdoms, including the papal territories, to the then Kingdom of Piedmont under the

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[38] Cf. V. Faraoni e A. Mencucci, *Vita del Venerabile Papa Pio IX*, Senigallia 2000, 7-25; *Enciclopedia dei papi: Innocenzo VIII-Giovanni Paolo II* (vol. 3), Roma 2000, 560. For more information concerning the early life of Pius IX: G. Serafini, *Pio Nono, Giovanni Maria Mastai Ferretti I: Le vie della divina provvidenza (1792-1846)*, Città del Vaticano 1958; A. Polverari, *Vita di Pio IX*, vol. 1, Città del Vaticano 1988.

[39] For information concerning the Conclave and the election of Pope Pius IX: G. Martina, *Pio IX (1846-1850),* Roma 1974 (*Miscellanea Historiae Pontificiae*, vol. 38), 81-96; *Storia della Chiesa XXI/1: Il Pontificato di Pio IX (1846-1878)*, Cinisello Balsamo (Milano) 1990, 25-27.

[40] L. Duchesne, *The Beginnings of the Temporal Sovereignty of the Popes A.D. 754-1073* (English translation from French by H. M. Arnold), London 1907, 13-269.

[41] For information concerning the activities of Pope Pius IX as the temporal sovereign and the situation of the Papal States: G. Martina, *Pio IX (1851-1866),* Roma 1986 (*Miscellanea Historiae Pontificiae*, vol. 51), 2-35 e 85-144; R. De Cesare, *The Last Days of Papal Rome* (1850-1870), London 1909, xvii-xviii, 198-217.

leadership of King Victor Emmanuel II[42]. On 17 March 1861, the new Kingdom of Italy, which also included the already annexed papal territories, was officially proclaimed. The unification process was then completed with the final capture of Rome by Italian troops on 20 September 1870, which marked the end of the Papal States and the Pope's temporal power[43]. Despite this tragic situation, which was characterized by fear and terror, the Pope decided to remain in Rome as a "prisoner of the Vatican" after discussions with the cardinals and all other parties involved, rejecting the suggestion of some to flee to a safe place in Italy or abroad[44].

The loss of the Papal States, especially the city of Rome, was a great shock for Pope Pius IX, who ruled over them like a sovereign emperor with the support of the Roman Curia[45]. It is possible that the loss of temporal sovereignty also prompted the Pope and the Roman Curia to establish their supreme power and absolute jurisdiction over the universal Church.

8.2. Convocation and Celebration of the First Vatican Council

Already in 1864 Pope Pius IX asked the cardinals residing in Rome to give him their opinion on the advisability of an ecumenical

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[42] From the ample bibliography on the unification of Italy, here only a few works are indicated: A. M. Banti, *La nazione del Risorgimento: Parentela, santità e onore alle origini dell'Italia unità,* Torino 2000; G. Di Fiore, *Controstoria dell'Unita d'Italia: Fatti e misfatti del Risorgimento*, Milano 2007; P. Pirri, *Pio IX e Vittorio Emanuele II dal loro carteggio privato*, 3 voll., 5 tomi (*Miscellanea Historiae Pontificiae* VIII, XVI, XVII, XXIV, XXV), Roma 1944-1961.

[43] Cf. *Storia della Chiesa XXI/1: Il Pontificato di Pio IX,* 134-162; P. Dalla Torre, *La difesa di Roma nel 1870,* in *Pio IX nel primo centenario della morte,* Città del Vaticano 1978, 485-659; R. De Cesare, *The Last Days of Papal Rome,* 439-460; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume VIII: The Church in the Age of Liberalism*, New York 1982, 250-254. For ample documetation concerning the end of Papal States: N. Miko, *Das Ende des Kirchenstaates,* 4 voll., Wien-München 1964-1970.

[44] Cf. G. Martina, *Pio IX (1867-1878)*, Roma 1990 (*Miscellanea Historiae Pontificiae*, vol. 58), 247-250; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume VIII,* 254-255.

[45] Cf. Pius IX, encyclical *Respicientes* (1 November 1870), in *Pii IX Pontificis Maximi Acta, Pars prima*, vol. V, 263-277.

council[46]. The majority were in favour of the proposal, and by March 1865 the convocation of the council was all but certain. However, the First Vatican Council was not officially announced until 1867 by Pope Pius IX, summoned on 29 June 1868 with the bull *Aeterni Patris* [47] and opened on 8 December 1869 with the first session in St Peter's Basilica[48]. At the opening session about 774 bishops were present; they came from all parts of the world and constituted a truly global representation, even if number of European bishops was higher. About sixty Eastern Catholic bishops attended, including the patriarchs of the Armenian, Chaldean, Melkite and Syrian Catholic Churches; the Maronite Patriarch, Bulus Massad, was not present, but some bishops represented this Church[49].

In the three following sessions only two constitutions were discussed and approved: the *Dogmatic Constitution on the Catholic Faith Dei Filius* (24 April 1870) and the *First Dogmatic Constitution on the Church of Christ Pastor Aeternus* (18 July

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[46] For essential information concerning the First Vatican Council: N. P. Tanner, The *Councils of the Church*: *A Short History*, 87-96; H. Jedin, *Ecumenical Councils of the Catholic Church: An Historical Outline*, 190-226; J. F. Kelly, *The Ecumenical Councils of the Catholic Church*: *A History*, Minnesota 2009, 149-173; *Dictionnaire de Théologie Catholique*, Tome XV, Paris 1950, 2536-2585; *Lexikon für Theologie und Kirche*, vol. 10, Freiburg 1965, 636-642. For documentation on the First Vatican Council: Mansi, voll. 49-53; E. Cecconi, *Storia del Concilio Ecumenico Vaticano ascritta sui documenti originali*, voll. 2 (4 tomi), Roma 1873-1879.

[47] Pius IX, bull *Aeterni Patris,* in Mansi 49-II (or 50), 1249-1256; also in E. Cecconi, *Storia del Concilio Ecumenico Vaticano ascritta sui documenti originali*, vol. 1, Roma 1873, 383-389.

[48] Cf. *Enciclopedia dei Papi*, vol. 3, 568; For details concerning the historical-political and theological context, preparatory works and convocation of the Council: G. Martina, *Pio IX (1867-1878)*, 119-166; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX (1846-1878)*, Cinisello Balsamo (Milano) 1990, 478-495; E. Cecconi, *Storia del Concilio Ecumenico Vaticano ascritta sui documenti originali*, vol. 1, 3-95 and documents I-XXXV, in pages 321-382.

[49] The lists of bishops in Mansi 50, 22-36; cf. G. Martina, *Pio IX (1867-1878)*, 166; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 497-498; C. A. Frazee, *Catholics and Sultans: the Church and the Ottoman Empire*, 235; N. P. Tanner, *The Councils of the Church*: *A Short History*, 95-96.

1870)[50]. In four chapters the Constitution *Dei Filius* affirmed the existence of a personal, free, and provident God, who is the creator of all things; the necessity of revelation to know matters concerning God and supernatural truths without error; the nature of faith as a supernatural virtue; the agreement between reason and faith[51].

The constitution *Pastor Aeternus* defined and proclaimed the universal primacy of jurisdiction and the infallibility of the Roman Pontiff, both issues of great importance not only for the Catholic Church but also for Churches and communities that are not in full communion with the Pope, regarding ecumenism. The bishops were divided into two groups precisely on the question of Pope's personal infallibility. Hence, the dogma of the "personal and separate" infallibility of the Pope (independent of the Church and the universal episcopate), was hotly debated and discussed at the Council by the majority, who were supported by Pope Pius IX, and even wanted to extend it to all of the Pope's teachings, and the minority, who preferred more of an "ecclesial infallibility" within the Church, which was only restricted to some official definitions ex cathedra[52].

The minority of about a quarter of the bishops, made up of the German, Austrian and Hungarian bishops, almost half of the Americans, a third of the French, most of the Chaldeans and Melkites and some Armenians, were opposed to the definition of the pope's "personal and separate" infallibility as divinely revealed truth for historical, theological, political and pastoral reasons; in their opinion, it deviated from the ecclesiastical structure of the early Christian Church[53].

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[50] *Decrees of the Ecumenical Councils,* vol. 2, N. P. Tanner (ed.), London 1990, 804-816; *Conciliorum oecumenicorum decretal,* 804-816.

[51] *Decrees of the Ecumenical Councils,* vol. 2, 804-811; *Conciliorum oecumenicorum decreta,* 804-811.

[52] For details concerning discussions and different positions concerning infallibility in the Council: G. Martina, *Pio IX (1867-1878)*, 166-205, *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 499-510; 537-548; K. Schatz, *Papal Primacy from Its Origins to the Present*, Minnesota 1996, 156-161.

[53] Cf. *Enciclopedia dei Papi*, vol. 3, p. 568; G. Martina, *Pio IX (1867-1878)*, 190-211; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 510-511.

Pope Pius IX and Propaganda Fide had already modified the Eastern canonical discipline before the First Vatican Council and curtailed the autonomy of the Eastern patriarchates with the promulgation of *Reversurus* and *Cum ecclesiastica*[54]. The tensions between the Holy See and the Eastern Catholic Churches, which had already increased after the promulgation of the aforementioned documents, reached their climax at the Council. As far as the attitude of the Eastern bishops and in particular the Chaldean Patriarch Joseph Audo is concerned, Robert J. Taft rightly states:

> Appalled at the Ultramontane council's lack of understanding of, or respect for the distinctiveness of the Catholic East, its age-old traditions and the peculiar dignity of its supreme hierarchs, Eastern Catholic bishops at Vatican I rose up in protest. On 25 January 1870, Chaldean Patriarch Joseph VI Audo, who was to play a significant role among the anti-infallibilists, took the floor in an historic speech insisting that the particular discipline of the Christian East be respected. His long patriarchate was a constant struggle against the desire for hegemony of the authoritarian and rigid Pope Pius IX[55].

Patriarch Audo was forbidden to raise the question of the election of bishops in the Council[56] and hence he spoke generally about canonical discipline. Against the attempt to unify the disciplines of Eastern and Western Churches, in his discourse in the Council on 25 January 1870 Audo emphasised the usefulness and necessity of the diversity of ecclesiastical disciplines, while at the same time maintaining unity in the faith[57].

The Chaldean Patriarch did not comment directly on the dogma of infallibility, but he was aware that the curtailment of the traditional autonomy of the Eastern Churches and the modification in their discipline was the result of the consolidation of Roman primacy and the concentration of power in the Roman Curia, which

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[54] For details and documentation: Chapter Four, 3.2. and 3.3.1.

[55] R. J. Taft, "Between East and West: The Eastern Catholic ('Uniate') Churches", in S. Gilley & B. Stanley (eds.), *The Cambridge History of Christianity: World Christianities c. 1815-1914*, Cambridge 2006, 423.

[56] Cf. J. Habbi, "Les Chaldéens et les Malabares au XIX siècle", in *Oriens Christianus* 64 (1980) 102.

[57] The discourse of Patriarch Audo can be found in Mansi 50-II, 513-516.

would culminate with the promulgation of the dogma of infallibility. Convinced that the definition of infallibility would lead to the suppression of patriarchal power, Audo joined those who refused to participate in the general assembly to promulgate the dogma[58].

On 19 May 1870 also the Greek Melkite Patriarch Gregory II Youssef (or Yusif, 1864-1897) recognised the primacy, but declared the definition of infallibility to be inappropriate, which in his opinion would have undermined the traditional rights of the Eastern patriarchs, which had been solemnly recognized by the Council of Florence and would have represented an obstacle to the union of the Churches[59]. In fact, the Melkite Patriarch was most assertive and, together with other Melkite bishops, formed a substantial group within the minority party of those opposed to the proclamation of papal infallibility[60]. In various discourses Patriarch Youssef emphasised the need to preserve the ancient prerogatives of the East, and in the general assembly on 13 July 1870 he voted *non placet*, for the draft constitution *Pastor Aeternus*. The Chaldean Patriarch Audo also voted *non placet* on the same day[61].

At the preliminary vote on 13 July 1870, 451 bishops voted yes (*placet*), 88 voted no (*non placet*, including the Chaldean and Melkite patriarchs, as mentioned above) and 62 had reservations (*placet iuxta modum*). Some opposing bishops changed their minds after much discussion and clarification, but about 60 bishops who opposed the definition of infallibility left Rome on 17 July 1870 (before the final vote), citing pastoral reasons for not wanting to vote publicly against the Pope's will. After their departure, the constitution *Pastor Aeternus* was finally approved on 18 July 1870 with the positive votes of the vast majority of the Fathers (535 in favour and only two against, but the latter also immediately accepted

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[58] Cf. J. Habbi, "Les Chaldéens et les Malabares au XIX siècle", 102.

[59] The discourse of Patriarch Gregory II Youssef, in Mansi 52, coll. 133-137.

[60] Cf. E. G. Farrugia (ed.), *Encyclopedic Dictionary of the Christian East* (second edition), Rome 2015, 1896-1897.

[61] Cf. C. A. Frazee, *Catholics and Sultans: the Church and the Ottoman Empire*, 236.

the dogma)[62]. Of the Eastern Catholics, the Armenian Patriarch Anthony Hassun and eleven Armenian bishops signed in favour of the definition, as did seven Chaldean bishops and two bishops from the Syrian delegation. As already indicated, the Melkite Patriarch Gregory II Youssef and eight of the Melkite bishops as well as the Chaldean Patriarch Joseph Audo left Rome together with the anti-infallibilist minority before the constitution *Pastor Aeternus* was finally adopted and promulgated[63].

Shortly after the promulgation of the constitution, the Franco-Prussian War (1870-1871) broke out on 19 July 1870, causing most of the remaining bishops of these countries to leave the Council. Discussion of the rest of the document on the nature of the Church was to continue when the bishops returned after a summer break. However, with the rapid advance of the Germans and the capture of Emperor Napoleon III, the French troops protecting papal rule in Rome withdrew from the city. On 20 October 1870, one month after the newly United Kingdom of Italy had seized Rome, and Pope Pius IX, who considered himself a prisoner in the Vatican at the time, issued the bull *Postquam Dei munere*[64], which postponed the Council indefinitely. In brief, the outbreak of the Franco-Prussian War and the occupation of Rome by Italian troops led to an early interruption of the Council. It was never resumed and never officially closed[65].

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[62] *Enciclopedia dei Papi*, vol. 3, p. 569; N. P. Tanner, *The Councils of the Church: A Short History*, 95; G. Martina, *Pio IX (1867-1878)*, 214-215; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 548-549; C. A. Frazee, *Catholics and Sultans: the Church and the Ottoman Empire*, p. 236.

[63] Cf. C. A. Frazee, *Catholics and Sultans: the Church and the Ottoman Empire*, 236; J. Hajjar, *Les Chrétiens uniates du Proche-Orient,* Paris 1962, 301-306.

[64] The bull *Postquam Dei munere*, in Pii *IX Pontificis Maximi Acta, Pars prima*, vol. V, 253-256; Mansi 53, 155-158.

[65] N. P. Tanner, *The Councils of the Church*: *A Short History*, 95; G. Martina, *Pio IX (1867-1878)*, 216-217; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 549-552; *Dictionnaire de Théologie Catholique*, Tome XV, 2577; *Lexikon für Theologie und Kirche*, vol. 10, 641-642.

8.3. Promulgation of the Dogma of the Universal Primacy of the Roman Pontiff

Since the primacy of the Roman Pontiff had already been defined in the Council of Florence in 1439, the First Vatican Council only proclaimed it as a dogma of the Catholic Church, in which all Christian faithful should believe. In the dogmatic constitution on the Church of Christ (*Pastor Aeternus*) the First Vatican Council solemnly declares:

Quapropter apertis innixi sacrarum litterarum testimoniis, et inhaerentes tum Praedecessorum Nostrorum, Romanorum Pontificum, tum Conciliorum generalium disertis, perspicuisque decretis, innovamus oecumenici Concilii Florentini definitionem, qua credendum ab omnibus Christi fidelibus est, sanctam Apostolicam Sedem, et Romanum Pontificem in universum orbem tenere primatum, et ipsum Pontificem Romanum successorem esse beati Petri principis Apostolorum, et verum Christi Vicarium, totiusque Ecclesiae caput, et omnium Christianorum patrem ac doctorem existere; et ipsi in beato Petro pascendi, regendi ac gubernandi universalem Ecclesiam a Domino nostro Iesu Christo plenam potestatem traditam esse; quemadmodum etiam in gestis oecumenicorum Conciliorum et in sacris canonibus continetur.

And so, supported by the clear witness of holy scripture, and adhering to the manifest and explicit decrees both of our predecessors the Roman Pontiffs and of general councils, we promulgate anew the definition of the ecumenical council of Florence[67] which must be believed by all faithful Christians, namely, that the apostolic see and the Roman Pontiff hold a world-wide primacy, and that the Roman Pontiff is the successor of blessed Peter, the prince of the apostles, true vicar of Christ, head of the whole Church and father and teacher of all Christian people. To him, in blessed Peter, full power has been given by our Lord Jesus Christ to tend, rule and govern the universal Church, as is also contained in the acts of the ecumenical councils and in the sacred canons.

Docemus proinde et declaramus, Ecclesiam Romanam, disponente Domino, super omnes alias ordinariae potestatis obtinere

Wherefore we teach and declare that, by divine ordinance, the Roman Church possesses a pre-eminence of ordinary power over

[67] Here reference is given to the definition of the Council of Florence.

principatum, et hanc Romani Pontificis iurisdictionis potestatem, quae vere episcopalis est, immediatam esse: erga quam cuiuscumque ritus et dignitatis pastores atque fideles, tam seorsum singuli quam simul omnes, officio hierarchicae subordinationis, veraeque obedientiae obstringuntur, non solum in rebus, quae ad fidem et mores, sed etiam in iis, quae ad disciplinam et regimen ecclesiae per totum orbem diffusae pertinent; ita ut custodita cum Romano Pontifice tam communionis, quam eiusdem fidei professionis unitate, Ecclesia Christi sit unus grex sub uno summo pastore. Haec est catholicae veritatis doctrina, a qua deviare salva fide atque salute nemo potest [66].

every other Church, and that this jurisdictional power of the Roman Pontiff is both episcopal and immediate. Both clergy and faithful, of whatever rite and dignity, both singly and collectively, are bound to submit to this power by the duty of hierarchical subordination and true obedience, and this not only in matters concerning faith and morals, but also in those which regard the discipline and government of the Church throughout the world. In this way, by unity with the Roman Pontiff in communion and in possession of the same faith, the Church of Christ becomes one flock under one supreme shepherd. This is the teaching of the Catholic truth, and no one can depart from it without endangering his faith and salvation.

The Florentine definition of the universal primacy of the Roman Pontiff was formulated in a way that was rather acceptable also to the Eastern Churches. Although the First Vatican Council explicitly affirms that "we promulgate anew the definition of the ecumenical council of Florence", only the first paragraph corresponds to the said definition. The second paragraph is a substantial addition, explicitly stating that all are subject to the supreme power of papal jurisdiction "not only in matters concerning faith and morals, but also in those which regard the discipline and government of the Church throughout the world". This contrasted

[66] Vatican I, Session 4 of 18 July 1870, constitution *Pastor Aeternus*, chapter 3, in *Decrees of the Ecumenical Councils*, vol. 2, 813-814; *Conciliorum oecumenicorum decreta,* 813-814; *The Christian Faith*, nos. 825-826. For interpretation and analysis: U. Betti, *La Costituzione dommatica Pastor Aeternus del Concilio Vaticano I*, Roma 1961; W. Kasper, "Primat und Episkopat nach dem Vatikanum I", in *Theologische Quartalschrift* 142 (1962) 47-85.

with the practice of the first millennium and the position of the Eastern Churches, especially that of the Chaldean and Melkite patriarchs, who recognized papal supremacy over faith and morals, but upheld the disciplinary autonomy of the Eastern Churches. In fact, the Eastern discipline had already been modified and canonical autonomy curtailed even before the Council by Pius IX through the promulgation of *Reversurus* and *Cum Ecclesiastica*.

The Florentine definition already established the divine origin of such supreme power of the Roman Pontiff: "in blessed Peter, full power has been given by our Lord Jesus Christ to tend, rule and govern the universal Church". In the second added paragraph, the Vatican I reaffirmed the divine origin of universal papal primacy by adding the phrase: "by divine ordinance, the Roman Church possesses a pre-eminence of ordinary power over every other Church, and that this jurisdictional power of the Roman Pontiff is both episcopal and immediate". This also means that according to the disposition of God the jurisdictional power of the Roman Pontiff is ordinary, episcopal and immediate. It is obvious that the primacy of the Pope, the successor of St Peter, is divine in its origin and essence, as Sacred Scripture and the testimony of the Fathers of the Church confirm. However, the universal, supreme, full and absolute power, as interpreted by the Ultramontanists, and the manner of its exercise in the second millennium seem to be of ecclesiastical and human origin, conditioned by the political, socio-cultural, ecclesial and theological situation of the time.

After the proclamation of the dogma, the Council also promulgated a strongly worded excommunication, which stipulates:

> […] if anyone says that the Roman Pontiff has merely an office of supervision and guidance, and not the full and supreme power of jurisdiction over the whole Church, and this not only in matters of faith and morals, but also in those which concern the discipline and government of the Church dispersed throughout the whole world; or that he has only the principal part, but not the absolute fullness, of this supreme power; or that this power of his is not ordinary and

immediate both over all and each of the Churches and over all and each of the pastors and faithful: let him be anathema[68].

It is interesting to note that this anathema is also applicable to anyone who denies the supreme power of the Pope over "the discipline and government of the Church". From the dogmatic statement and the anathema, it is evident that the Roman Pontiff's jurisdictional power was episcopal, ordinary, immediate, supreme, absolutely full and universal over all Churches, bishops, pastors and other faithful, which would be exercised without any distinction of rites or dignities, that is equally in the Western Church and the Eastern Catholic Churches.

8.4. Definition of Papal Infallibility and Its Promulgation as Dogma

The doctrine of the primacy of Peter, attested to in the New Testament, handed down by the patristic tradition and recognised by the ecumenical councils of the first millennium, was already defined in the Council of Florence. Vatican Council I definitively formulated it as a dogma of the Catholic Church, and added some qualifications that precisely define the nature of papal power as ordinary, episcopal and immediate. The real novelty of the First Vatican Council was therefore the definition of the personal infallibility of the Pope.

The definition contained in the dogmatic constitution on the Church of Christ (*Pastor Aeternus*) reads as follows:

Itaque Nos traditioni a fidei Christianae exordio perceptae fideliter inhaerendo, ad Dei Salvatoris nostri gloriam, religionis Catholicae exaltationem et Christianorum populorum salutem, sacro approbante Concilio, docemus et divinitus revelatum dogma esse definimus: Romanum Pontificem, cum ex Cathedra loquitur, id est, cum omnium	Therefore, faithfully adhering to the tradition received from the beginning of the Christian faith, to the glory of God our saviour, for the exaltation of the Catholic religion and for the salvation of the Christian people, with the approval of the sacred council, we teach and define as a divinely revealed dogma that when the Roman Pontiff speaks *ex*

[68] Vatican I, Session 4 of 18 July 1870, constitution *Pastor Aeternus*, chapter 3, in *Decrees of the Ecumenical Councils,* vol. 2, 814-815; *Conciliorum oecumenicorum decreta,* 814-815.

Christianorum Pastoris et Doctoris munere fungens, pro suprema sua Apostolica auctoritate doctrinam de fide vel moribus ab universa Ecclesia tenendam definit, per assistentiam divinam, ipsi in beato Petro promissam, ea infallibilitate pollere, qua divinus Redemptor Ecclesiam suam in definienda doctrina de fide vel moribus instructam esse voluit; ideoque eiusmodi Romani Pontificis definitiones ex sese, non autem ex consensu Ecclesiae irreformabiles esse.	*cathedra*, that is, when, in the exercise of his office as shepherd and teacher of all Christians, in virtue of his supreme apostolic authority, he defines a doctrine concerning faith or morals to be held by the whole Church, he possesses, by the divine assistance, promised to him in blessed Peter, that infallibility which the divine Redeemer willed his Church to enjoy in defining doctrine concerning faith or morals. Therefore, such definitions of the Roman Pontiff are of themselves, and not by the consent of the Church, irremediable.
Si quis autem huic Nostrae definitioni contradicere, quod Deus avertat, praesumpserit; anathema sit.	So then, should anyone, which God forbid, have the temerity to reject this definition of ours: let him be anathema[69].

The Council established the divine origin of the Pope's infallibility and emphasised its personal character. The phrase, "*eiusmodi Romani Pontificis definitiones ex sese, non autem ex consensu Ecclesiae irreformabiles esse* ("such definitions of the Roman Pontiff are of themselves, and not by the consent of the Church, irremediable"), was the most controversial point, as the majority and Pope Pius IX wanted to emphasise Pope's personal and absolute infallibility, independent of the Church and the universal episcopate, while the minority would have preferred to locate the Pope's infallibility within the Church and in consultation with the bishops of the universal Catholic Church. As we have already seen, although attempt was made to reach a consensus, this was not

[69] Vatican I, Session 4 of 18 July 1870, constitution *Pastor Aeternus*, chapter 4, in *Decrees of the Ecumenical Councils,* vol. 2, 816; *Conciliorum oecumenicorum decreta,* 816.

completely successful, and the dogma was adopted with the favourable votes of the vast majority of the Fathers[70].

In fact, the mentioned controversial statement, "such definitions of the Roman Pontiff are of themselves, and not by the consent of the Church, irremediable", is directed against the fourth article of Gallicanism, which claimed that papal magisterial decisions are only irrevocable if they are supported by the consensus of the Church[71]. Formally, the wording in question only states that when papal definitions are made, this fact alone is sufficient to make the doctrine definitive and irrevocable; it does not require additional ratification by the consensus of the Church. It in no way implies that the Pope is not dependent on the witness or faith of the Church. And it is not the case that the Pope is said to be infallible "in and of himself", because *ex sese* means "of themselves" and refers to the definitions, not to the Pope[72]. Since an anathema was also promulgated, it was extremely difficult for any Catholic not to adhere to the doctrine of infallibility for long.

8.5. Later Adherence of Anti-infallibilists

All the Latin bishops who had left Rome before the final vote on the constitution *Pastor Aeternus* were gradually persuaded to

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[70] Cf. G. Martina, *Pio IX (1867-1878)*, 190-205; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 548-549.

[71] Gallicanism refers to a set of religious and political beliefs that were prominent in France during certain periods of its history, particularly from the 16th to the 18th centuries. Gallicanism advocated for the autonomy of the French Church from the authority of the Pope and the Roman Curia. It also sought to regulate the relationship between the Catholic Church and the State, advocating its subordination to the royal power. Cf. M. Dubruel, "Gallicanisme", in *Dictionnaire de Théologie Catholique*, Tome VI, Paris 1920, 1096-1137. The fourth article of the declaration of the French Church on 19 March 1682 reads: "Although the Pope has the chief part in questions of faith, and his decrees apply to all the Churches, and to each Church in particular, yet his judgment is not irreformable, at least pending the consent of the Church". As reproduced in K. Schatz, *Papal Primacy from Its Origins to the Present*, 189. Cf. also, E. G. Farrugia (ed.), *Encyclopedic Dictionary of the Christian East*, 1898.

[72] Cf. K. Schatz, *Papal Primacy from Its Origins to the Present*, 164; E. G. Farrugia (ed.), *Encyclopedic Dictionary of the Christian East*, 1898.

accede to the dogma of infallibility[73]. The Roman Curia constantly endeavoured to obtain the signatures of Patriarch Gregory II Youssef and the rest of the Melkite delegation who had voted *non placet* at the general assembly and had left Rome before the final vote and the definitive approval of the dogmatic constitution *Pastor Aeternus* on papal primacy and infallibility. However, Gregory II Youssef and the Melkite bishops later assented to it only *iuxta modum*, and added the restrictive clause: all rights, privileges and prerogatives of the patriarchs of the Eastern Churches being respected[74].

As we have already seen, the Chaldean Patriarch Joseph Audo was opposed to the definition of infallibility because, in his opinion, it was detrimental to the rights, privileges and prerogatives of the patriarchs and Eastern Churches. Pope Pius IX and Propaganda Fide gradually forced him to adhere to the dogmatic definitions of the First Vatican Council. The Chaldean Patriarch Audo finally signed a declaration on 29 July 1872, in which he accepted the definitions of the Council, but he added a restrictive phrase:

> […] I adhere to the decrees and constitutions of the Holy Vatican Council and especially to the dogmatic definition of the infallibility of the Roman Pontiff in matters of faith and morals, when he, as the Pope and Head of the Catholic Church, teaches the universal Church, a definition issued in the Fourth Session of the Vatican Council on 18 July 1870. I do this, however, with the reservation that all the rights, distinctions, privileges, favours, customs and traditions enjoyed by the ancient Patriarchs of the East, both in general and in particular are maintained without any change or difference[75].

However, such a formulation was unacceptable to Propaganda Fide and Pope Pius IX, who sought the complete supremacy of the Pope and the Holy See over the Eastern patriarchal Churches

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[73] For details and documentation: G. Martina, *Pio IX (1867-1878)*, 217-228; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 553-557; *Dictionnaire de Théologie Catholique*, Tome XV, 2578-2580.

[74] R. Roberson, *The Eastern Christian Churches: A Brief Survey*, 58; R. J. Taft, "Between East and West: The Eastern Catholic ('Uniate') Churches", 420.

[75] Letter of the Patriarch, in Archives of the Dicastery for the Eastern Churches, *Ponenze* 1872, ff. 672-673.

without any restriction or limitation, which until then had enjoyed sufficient disciplinary autonomy. Intimidated by the threat of major excommunication and deposition from the patriarchal throne, Patriarch Joseph Audo, weakened by age and illness, finally and completely submitted to the Pope and the Propaganda Fide on 1 March 1877, one year before his death on 14 March 1878, after several years of bitter disputes and conflicts[76].

The definition of the Pope's personal infallibility also contributed to the strengthening of his universal primacy of jurisdiction and his absolute supremacy over the Church. In short, with the First Vatican Council the progressive development of papal primacy reached its climax with the promulgation of two irrevocable dogmas that must be believed by all Christian faithful of the Catholic Church.

9. Universal Primacy of Papal Jurisdiction and the 1917 Code of Canon Law

The *Code of Canon Law*, promulgated on 27 May 1917 and obtained force of law on 19 May 1918, translated into legal language the doctrine of universal papal primacy of jurisdiction as developed in the second millennium and as defined by the First Vatican Council[77]. Canon 218 states:

> § 1. The Roman Pontiff, the Successor in primacy to Blessed Peter, has not only a primacy of honour, but supreme and full power of jurisdiction over the universal Church both in those things that pertain to faith and morals, and in those things that affect the discipline and government of the Church spread throughout the whole world.
>
> § 2. This power is truly episcopal, ordinary, and immediate both over each and every church and over each and every pastor and faithful independent from any human authority.

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[76] For details and documentation, see the *Ponenza* on the final submission of the Patriarch, in Vatican City, Archives of the Dicastery for the Eastern Churches, *Ponenze* 1877, ff. 343-434.

[77] Benedict XV, apostolic constitution of promulgation *Providentissima Mater Ecclesia*, in *AAS* 9-II (1917) 5-7; complete Latin text of the Code in pages 11-456; English translation: *The 1917 Pio-Benedictine Code of Canon Law*, edited by E. N. Peters, San Francisco 2001.

The Roman Pontiff, legitimately elected, immediately upon accepting the election, obtains by divine law the full power of supreme jurisdiction (canon 219). The corresponding Eastern legislation contained in the motu proprio *Cleri sacntitati* reproduces verbatim the canons of the 1917 Latin Code concerning the Roman Pontiff (canons 162-165)[78].

Since the Pope possesses full, complete and supreme power, all other authorities in the Church including ecumenical councils are nothing but a participation in the power of the Pope. This is also evident from the systematic arrangement of the 1917 Latin Code. In fact, title VII of Book 1, entitled *De suprema potestate deque iis qui eiusdem sunt ecclesiastico iure participes,* after presenting Roman Pontiff as the supreme authority (chapter 1), treat those who by ecclesiastical law participate in it, namely Ecumenical Councils (chapter II), the cardinals of the holy Roman Church (chapter III), the Roman curia (chapter IV), the legates of the Roman Pontiff (chapter V), the patriarchs, primates, metropolitans (chapter VI), and the plenary and provincial councils (chapter VII), etc.

10. Supreme Universal Primacy of the Roman Pontiff and the Development of the Roman Curia

In the early Church a group of priests or deacons and later a consistory of bishops around Rome assisted the Pope in governing the Church[79]. To deal with particularly important matters, the Bishop of Rome convened Roman synods or councils, as was customary in the early Church, to which he summoned the bishops governing in the ecclesiastical province of Rome. From the sixth century onward, as cardinals gradually gained prominence in the Roman Church, Roman Pontiffs resorted to their services with

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[78] Pius XII, motu proprio *Cleri sacntitati* (2 June 1957), in *AAS* 49 (1957) 433-600; English translation in P. Pallath (ed.), *Code of Eastern Canon Law: English Translation of the Four Apostolic Letters Issued Motu Proprio by Pope Pius XII*, Kottayam 2021, 442-651.

[79] For information about the early stages of the Roman Curia: N. del Re, *La Curia Romana: Lineamenti storico-giuridici* (iv ed.) Roma 1998, 21-22; A. M. Stickler, "Le riforme della Curia nella storia della Chiesa", in *La Curia romana nella cost. ap. Pastor bonus*, a cura di P. A. Bonnet-C. Gullo, Città del Vaticano 1990, 1-3.

increasing frequency. Pope Nicholas II (1059-1061), with the bull *In nomine Domini* of 13 April 1059, in the Roman Synod, reserved to the cardinals the right to elect the Roman Pontiffs. From that time on, the importance of the college of cardinals and its collaboration in the governance of the Church steadily increased, and gradually the consistory of cardinals replaced the Roman synod[80]. In the first millennium there were no permanent congregations or dicasteries, but only individual collaborators and colleges, to whom the Roman Pontiff entrusted various tasks[81].

However, parallel to the supreme papal primacy of universal jurisdiction the Roman Curia also developed, through which the Pope practically exercised his supreme power, a major cause of the centralization of ecclesiastical governance. In fact, the Roman Curia developed in the second millennium with permanent structures and bureaucratic organization[82]. During the reign of Pope Urban II (1088-1099), who contributed much to the development of the Roman Curia, it was established on the model of a royal ecclesiastical court. Gradually, different departments were created according to the needs of the time [83].

On 21 July 1542 Pope Paul III appointed a commission of six cardinals to watch over matters of faith[84]. This commission, which became known as the Holy Roman and Universal Inquisition, was initially a tribunal that dealt exclusively with cases of heresy and schism. It later became the first congregation, namely the Sacred Congregation of the Holy Office. Following this model, other congregations were then founded[85].

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[80] M. Mosconi, "L'elezione del Romano Pontefice come espressione del suo ufficio di 'perpetuo e visibile principio e fondamento dell'unità sia dei Vescovi sia della moltitudine dei fedeli' (*LG* 23)", in *Quaderni di Diritto Ecclesiale* 22 (2009) 230-232; N. del Re, *La Curia Romana*, 25-26; G. Ghirlanda, *Chiesa universale a chiesa particolare (Cann. 330-572)*, Roma 2023, 258-259.

[81] A. M. Stickler, "Le riforme della Curia nella storia della Chiesa", 3-5.

[82] Cf. N. del Re, *La Curia Romana,* 21.

[83] Cf. G. Ghirlanda, *Chiesa universale a chiesa particolare*, 282-283.

[84] Paul III, bull *Licet ab initio*, in *Bullarium Romanum* VI, Torino 1860, 344-346.

[85] N. del Re, *La Curia Romana,* 29.

Pope Pius IV (1560-1565) entrusted the supervision of the implementation of the norms of the Council of Trent (1545-1563) to a commission of first 8 and then 11 cardinals, which became the permanent Congregation of the Council in 1564. In 1571 Pius V created the Congregation for the Reform of the Index of Forbidden Books, which until then had been the responsibility of the aforementioned Inquisition[86]. Over time, the Roman Curia continued to evolve with the creation of various permanent congregations and dicasteries[87]. With the Apostolic Constitution *Immensa Aeterni Dei* of 22 January 1588 Pope Sixtus V (1585-1590) completely reorganized the Roman Curia and created fifteen permanent congregations: 10 for the ecclesiastical governance of the universal Church and 5 for the political administration of the Papal States[88].

Obviously, after the reform of Pope Sixtus V, some congregations disappeared over the centuries and others came into being according to the circumstances of the time, but it is not the scope of this chapter to present all of them[89]. However, some dicasteries are mentioned because of their importance to the mission territories and the Eastern Catholic Churches. Pope Gregory XV established the Congregation for the Propagation of the Faith (*Congregatio de Propaganda Fide*) on 22 June 1622 by the apostolic constitution *Inscrutabili divinae*[90]. Although the main task of the Congregation was to direct and supervise missionary activity throughout the world, the Eastern Catholic Churches were also placed under its authority. Over time, various commissions or bodies arose within Propaganda Fide to deal with the canonical and

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[86] N. del Re, *La Curia Romana,* 29.

[87] N. del Re, *La Curia Romana,* 30-33; A. M. Stickler, "Le riforme della Curia nella storia della Chiesa", 4-6.

[88] Sixtus V, Constitution *Immensa Aeterni Dei,* in *Bullarium Romanum VIII,* Torino 1863, 989-990. As we have already seen, at the zenith of the papal power the Papal States included most of the modern Italian regions of Lazio, Marche, Umbria and Romagna.

[89] For information about the evolution of the Roman Curia from 1588 to 1908: N. del Re, *La Curia Romana,* 38-49.

[90] *Collectanea Sacrae Congregationis de Propaganda Fide,* vol. 1, Romae 1907, 2-4; also in *Bullarium Romanum* XII, Torino 1867, 690-693.

liturgical affairs of the Eastern Churches, such as the *Congregatio super Dubiis Orientalium* (1627-1636), the *Congregatio super Correctione Euchologii Graecorum* (1636-1717) and the *Congregatio super Correctione Librorum Orientalium* (1717-1862)[91]. On 6 January 1862 with the apostolic constitution *Romani Pontifices* Pope Pius IX established another separate body in the Congregation of Propaganda Fide for the Eastern Churches with the name the 'Sacred Congregation of Propaganda Fide for the Affairs of the Eastern Rite'[92].

Under Pope Pius X, another general reorganization took place in 1908, reflecting the focus on purely ecclesiastical matters after the loss of the Papal States[93]. On 29 June 1908 Pope Pius X promulgated the Apostolic Constitution *Sapienti consilio*, according to which the Roman Curia consisted of 11 permanent congregations, three tribunals and five offices[94]. The Sacred Roman Rota, which had ceased its activity in 1870, was re-established to deal with judicial cases, while the Congregations lost their judicial competence and became purely administrative bodies. On 1 May 1917 Pope Benedict XV, with the MP *Dei providentis,* separated the Eastern section of Propaganda Fide and established the independent Congregation for the Eastern Church (*Congregatio pro Ecclesia Orientali*), which was given jurisdiction over all Eastern Catholic Churches[95]. This reform of Pius X, later confirmed and supplemented in the *Code of*

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[91] For details, M. Dziob, *The Sacred Congregation for the Oriental Church*, Washington 1945, 48-51; O. Raquez, "La Congrégation pour la correction des livres de l'Eglise orientale (1719-1862)", in J. Metzler (ed.), *Sacrae Congregationis de Propaganda Fide Memoria Rerum*, vol. 2, Rome-Freiburg-Vienna, 1971, 112-145; M. Vattappalam, *The Congregation for the Eastern Churches: Origins and Competence*, Rome 1999, 36-41.

[92] Pius IX, apostolic constitution *Romani Pontifices*, in *Codicis Iuris Canonici Fontes*, vol. II, Romae 1924, 946-953. The Latin name of the Congregation was: *Congregatio de Propaganda Fide pro negotiis ritus orientalis*.

[93] For details about the loss of Papal States, see in this chapter number 8.1.

[94] Pius X, Apostolic Constitution *Sapienti consilio,* in *ASS* 41 (1908) 425-440; also in *AAS* 1 (1909) 7-19.

[95] Benedict XV, MP *Dei providentis*, in *AAS* 9-I (1917) 529-531.

Canon Law promulgated by Benedict XV in 1917 (canons 242-264), remained practically unchanged until the Second Vatican Council[96].

Corresponding to the consolidation of the primacy of Roman Pontiff, who with the First Vatican Council acquired full, supreme and complete power in the universal Church and in every diocese, the second millennium also saw the rapid development of the Roman Curia, through which universal primatial power was exercised. In fact, the Roman Curia, for and on behalf of the Pope, regulated the ministry of individual bishops, metropolitans and patriarchs, as well as collegial bodies such as the particular councils of the Latin Church and the patriarchal synods of the Eastern Churches, resulting in extreme centralization and rigid uniformity, to the detriment of ecclesial pluralism, communion ecclesiology, episcopal collegiality, synodality, local autonomy and legitimate diversity.

[96] The corresponding Eastern legislation *Cleri sanctitati* reproduces the canons of the 1917 Latin Code concerning the Roman Curia. See canons 188-210.

Chapter Four

DECLINE OF SYNODALITY IN THE SECOND MILLENNIUM UNTIL THE SECOND VATICAN COUNCIL

Introduction

The development of the supreme, full and absolute power of the Roman Pontiff with universal jurisdiction, qualified as episcopal, ordinary and immediate, reached its climax with the promulgation of the dogmas of divinely instituted primacy and the personal infallibility of the Pope at the First Vatican Council. A natural consequence of this triumph of universal Roman primacy was the decline of synodality in the East and West in the second millennium. This led to a new interpretation of episcopal, metropolitan and patriarchal power of governance as sharing in the supreme and full power of the Roman Pontiff. In addition, the provincial and plenary councils of the Latin Church and the synods of the Eastern Catholic Churches gradually lost their power and competence.

1. Papal Origin of Episcopal Power of Governance

According to the undivided common tradition of the Church, a bishop was consecrated for a particular Church (diocese or eparchy), and by the consecration itself he received all the powers necessary for the governance of that Church. No doctrinally or juridically relevant distinction was made between powers of order and powers of jurisdiction[1]. In the second millennium, as a result of the

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[1] Cf. Y. Congar, *Ministères et communion ecclésiale*, 83-90; W. Bertrams, *De relatione inter episcopatum et primatum: principia philosophica et theologica quibus relatio iuridica fundatur inter officium episcopale et primatiale*, Roma 1963, 56; "Il soggetto del potere supremo nella Chiesa", in *Civiltà Cattolica* 116/11 (1965) 568; "Episcopato e primato nella vita della Chiesa", in *Civiltà Cattolica* 113/11 (1962) 221; "La collegialità episcopale", in *Civiltà Cattolica* 115/1 (1964) 440; *The Papacy, the Episcopacy and Collegiality*, Westminister 1964, 50, 105-106

consolidation of papal jurisdictional primacy and the concomitant Roman centralization, collegiality and the identity of bishops were relegated to the background, and a clear distinction or even separation was also made between the power of order received through episcopal consecration and the power of jurisdiction conferred on the consecrated bishop by the Roman Pontiff[2]. Such a conception is firmly established in the Church by the XII century[3].

Thomas Aquinas (1225-1274) makes a clear distinction between the power of order, which is sacramental, and the power of jurisdiction, which is not sacramental but subject to human discretion[4]. Responding to the question whether the schismatics have any power Aquinas answers: "Spiritual power is twofold, the one sacramental, the other a power of jurisdiction. The sacramental power is one that is conferred by some kind of consecration", which is irremovable since it pertains to the essence of a person. "On the other hand, the power of jurisdiction is that which is conferred by a mere human appointment. Such a power as this does not adhere immovably to the recipient, so that it does not remain in heretics and schismatics […][5]. Consequently, heretics and schismatics do not possess the powers of teaching and governing and hence their acts are null and void. Thomas Aquinas thus clearly distinguishes between the power of order received from God through episcopal consecration to perform sacramental acts and the power of

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and 114; G. Alberigo, *Lo sviluppo della dottrina sui poteri nella Chiesa universale: momenti essenziali tra il XVI e il XIX secolo*, Roma 1964, 11-101 & 179-454.

[2] Cf. J. Ratzinger, *Il nuovo popolo di Dio* (*Biblioteca di Teologia Contemporanea* 7), Brescia 1992, 191-193; Y. Congar, *Ministères et communion ecclésiale*, 95-97; "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 240-248; "Ordre et juridiction dans l'Eglise", in *Sainte Eglise: études et approches ecclésiologiques* (*Unam Sanctam* 41), Paris 1963, 203-237; W. Bertrams, "De quaestione circa originem potestatis iurisdictionis Episcoporum in Concilio Tridentino non resoluta", in *Periodica* 52 (1963) 465-469; *De relatione inter episcopatum et primatum*, 54-55; "La collegialità episcopale", 440; W. De Vries, "Grenzen des päpstlichen Primats", in *Wort und Warheit* 26 (1971) 487-494.

[3] Cf. J. A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts*, Chicago 2008, 76-125; W. Bertrams, *The Papacy, the Episcopacy and Collegiality*, 51, 105-106.

[4] Thomas Acquinas, IV Sent., d. 20, art. 4, q.la., resp.

[5] Thomas Acquinas, *Summa Theologiæ*, *Secunda secundae*, q. 39, art. 3.

jurisdiction conferred by a human act, which can therefore be abrogated since it is not of divine or sacramental origin[6].

According to the theory of separation further developed in the second millennium only the power of orders, namely the spiritual authority to ordain and to celebrate the sacramental rites, is received directly from Christ at the episcopal consecration, but the power of governance or jurisdiction, namely the authority to teach and govern, is conferred on bishops by the Roman Pontiff. The sacrament of holy order confers only an attitude or disposition to receive jurisdiction. Christ directly conferred full, supreme, and universal authority only on Peter and his successors, and it is the Roman Pontiff who confers this jurisdictional power on the bishops, either collegially or singularly[7].

In the most extreme form of the theory of separation, the advocates of supreme papal power regarded the bishops as mere functionaries or officials of the Roman Pontiff. They are simply the instruments of papal rule. In other words, the bishop has his own power of order, but the power of jurisdiction belongs solely to the Roman Pontiff himself, and the bishops share in it only insofar as they remain faithful to the commands of the Pope[8].

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[6] For more about the doctrine of Thomas Acquinas: G. Ghirlanda, *Chiesa universale a chiesa particolare,* 490-491 and 494-498; O. De Bertolis, *Origine ed esercizio della potestà ecclesiastica di governo in San Tommaso*, Roma 2005, 21-39.

[7] Cf. D. Staffa, "De collegiali episcopatus ratione", in *Divinitas* 8 (1964) 42-46; A. Gutierrez, "Collegium episcopale tamquam subiectum plenae et supremae potestatis", in *Divinitas* 9 (1965) 425-426; U. Lattanzi, "Episcopalis collegii ad papam relatio", in Acta congressus internationalis de theologia Concilii Vaticani II, Romae diebus 26 septembris-1 octobris 1966 clebrati, Typis Polyglotis Vaticanis 1968, 136-145; "De nexu agnoscendo inter episcopalem consecrationem et sacra Ecclesiae munera", in *Divinitas* 9 (1965) 398-410; G. Ghirlanda, *Chiesa universale a chiesa particolare*, 479-494. He makes a disparate attempt to find some traces of this theory even in the first millennium: see the same book pages 498-508.

[8] Cf. J. Greenaway, *The Differentiation of Authority: The Medieval Turn toward Existence*, Washington D.C. 2012, 207-208; B. Tierney, "Church Law and Alternative Structures: A Medieval Perspective", in F. Oakley and B. M Russett (ed.), *Governance, Accountability, and the Future of the Catholic Church*, New York 2004, 55.

After the development of the theory of the separation of the power of order and the power of jurisdiction, it found expression in the teaching of the Roman Pontiffs before the Second Vatican Council. Pope Leo XIII (1878-1903) stated:

> […] Bishops are deprived of the right and power of ruling, if they deliberately secede from Peter and his successors; because, by this secession, they are separated from the foundation on which the whole *edifice* must rest […]. No one, therefore, unless in communion with Peter can share in his authority, since it is absurd to imagine that he who is outside can command in the Church […][9].

Pope Pius XII (1939-1958) taught that each bishop, as far as his own diocese is concerned, is a true Shepherd who feeds the "flock entrusted to him and rules it in the name of Christ. Yet in exercising this office they are not altogether independent, but are subordinate to the lawful authority of the Roman Pontiff, although enjoying the ordinary power of jurisdiction which they receive directly from the same Supreme Pontiff"[10]. John XXIII in the allocution at the secret consistory of 15 February 1958 affirmed that no jurisdiction could certainly arise from a sacrilegious episcopal consecration, performed without an "apostolic mandate"[11].

The theory developed in the second millennium concerning the papal origin of the episcopal power of governance or jurisdiction is reflected in the 1917 *Code of Canon Law*. The sacred hierarchy is a divine institution, and the various grades are established by divine law (canon 108 § 3). "Those who are taken into the ecclesiastical hierarchy […] are constituted in the grades of the power of orders by sacred ordination; into the supreme pontificate, by divine law itself upon the completion of the conditions of legitimate election and acceptance; in the remaining grades of jurisdiction, by canonical mission" (canon 109). According to the canon only the Roman

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[9] Leo XIII, Encyclical *Satis cognitum* (29 June 1896), n. 15, in *ASS* 28 (1895-1896) 733-734.

[10] Pius XII, Encyclical *Mystici corporis* (29 June 1943), n. 42, in *AAS* 35 (1945) 212. The Pope reiterates the same idea in other encyclicals: *Ad sinarum gentem* (7 October 1954), n. 12, in *AAS* 47 (1955) 9; *Ad apostolorum principis* (29 June 1958), nn. 39-40, in *AAS* 50 (1958) 610.

[11] John XXIII, Allocution *Ex quo die*, in *AAS* 50 (1958) 983.

Pontiff receives the power of jurisdiction by divine law. All other grades of order obtain jurisdiction from the Roman Pontiff through canonical mission. Only the Roman Pontiff can grant jurisdiction by canonical mission (canon 332). In summary, the one who is incorporated into the hierarchy by sacred ordination receives the power of order, then obtains the power of governance or jurisdiction from the Roman Pontiff, who alone receives it directly from God.

2. Papal Origin of Metropolitan Power and the Bestowal of Pallium

The pallium of the Latin Church and the omophorion of the Greek and Coptic Churches were considered in the early Church only as liturgical vestments and as symbols of the spiritual authority of the pastors[12]. Although the pallium could initially be used by any bishop, it gradually evolved into a symbol of metropolitan authority, which by the second millennium at the latest was seen as sharing in the fullness of power of the Roman Pontiff. Already since the IX century, all metropolitans were obliged to request the pallium from the Roman Pontiff within three months of their consecration, and until they received it, their metropolitan and even episcopal powers were restricted[13].

The juridical significance of the pallium reached its peak during the pontificate of Pope Innocent III (1198-1216), who reiterated that the conferment of the pallium, together with a profession of faith and a promise of obedience to the Holy See, were necessary conditions for the exercise of metropolitan rights[14]. Thus, the pallium became the symbol of the 'plenitude of the pontifical

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[12] Cf. G. Orioli, "La collazione del pallio", in *Nuntia* 2 (1976) 88. The *pallium*, made of lamb's wool, is a white band measuring about 5 cm in width. Two equally wide bands, about 30 cm long containing small silk-covered lead pieces, extend one in front and one on the back.

[13] Cf. P. Erdö, "Palio", in *Diccionario General de Derecho Canonico* (J. Otaduy, A. Viana & J. Sedano edd.), vol. V, Pamplona 2002, 883-884; G. Ghirlanda, *Chiesa universale a chiesa particolare*, 692.

[14] P. Erdö, "Palio", 884; G. Ghirlanda, *Chiesa universale a chiesa particolare*, 692.

office' and the specific insignia of a metropolitan archbishop, that is, an archbishop who is the head of a metropolitan see.

In the 1917 Code of Canon Law, the canons on metropolitans (272-279) were placed under the main title, those who share in the supreme authority of the Pope, to make it clear that metropolitan power is a sharing in the primatial authority of the Roman Pontiff. Two relevant canons concerning the juridical significance of the pallium are reproduced below:

> Canon 275: A Metropolitan is bound by the obligation, within three months of consecration or, if he is already consecrated, from his canonical provision in Consistory, of seeking from the Roman Pontiff the pallium, either personally or through a procurator, that signifies archiepiscopal power.
>
> Canon 276: Wherefore, before the imposition of the pallium, outside of a special apostolic indult, he illicitly places any acts, whether of metropolitan jurisdiction or of episcopal orders, that, in accord with liturgical law, require the use of the pallium.

Metropolitans in the Latin Church were obliged to request the pallium from the Roman Pontiff in accordance with the concept of metropolitan power as sharing in the supreme power of the Pope and therefore granted by him through the symbolic grant of the pallium. In accordance with this concept, restrictions were also placed on the exercise of metropolitan power prior to the reception of the pallium, rendering it unlawful. Surprisingly, a bishop appointed metropolitan could not even lawfully exercise his episcopal power, which required the use of the pallium.

3. Decline of Synodality in the Catholic East

In the second millennium, the decline of synodality was evidenced in all aspects of Eastern ecclesiastical life, such as the election of patriarchs and bishops, the regulation of the liturgy and the publication of liturgical books, the enactment and promulgation of laws, and the administration of justice. Because of the vastness of the theme, the decline of synodality is demonstrated through two main elements: patriarchal authority and the election of patriarchs and bishops.

3.1. Patriarchal Authority as a Sharing in the Fulness of the Supreme Power of the Roman Pontiff

As we have already seen, the universal jurisdictional primacy of the Roman Pontiff, developed in the second millennium and definitively defined as dogma at the First Vatican Council, attributed supreme, full and complete power to the Roman Pontiff. Consequently, all other powers in the Church were nothing more than a share in the fullness of papal power.

Therefore, in the second millennium, patriarchal power was also understood as participation in the supreme power of the Roman Pontiff and, consequently, was conferred by him as a privilege to the holders of the patriarchal sees. One became truly patriarch not by election, but by confirmation or investiture into office by the Apostolic See of Rome. Thus, confirmation of the patriarch by Rome logically became equivalent to appointment to the office[15]. On the new concept of patriarchal power Wilhelm De Vries writes:

> In the second millennium, on the contrary, we find a fundamentally different conception of the patriarch's position of preeminence. Now this is understood as a participation in the power of the Pope, and consequently is granted by the Pope as a privilege to the occupant of the patriarchal thrown. Accordingly, the confirmation of the patriarchs logically becomes an appointment to the office. The hegemony of the patriarchs is no more the general right of self-determination in the fields of liturgy, canon law and discipline, but rather the sum of exactly determined and limited individual privileges, freely granted by Rome, which, even when taken all together, mean far less than the old autonomy of the first millennium[16].

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[15] "Il patriarca non diventa realmente tale per l'elezione, che del resto nei documenti pontifici viene comunemente chiamata 'electio seu postulatio', ma lo diviene solo con la conferma o l'insediamento da parte della S. Sede. Prima di tale conferma egli viene chiamato 'electus seu postulatus patriarcha'. Nelle bolle di conferma si dice regolarmente: 'Praeficimus te in patriarcham' o qualcosa di simile". W. De Vries, "La S. Sede ed i patriarcati cattolici d'Oriente", 348.

[16] W. De Vries, "The Eastern Patriarchates and Their Relationship to the Power of the Pope", in *One in Christ,* vol. 2, no. 2 (1966) 130. Cf. also W. De Vries "Die Entstehung der Patriarchate des Ostens und ihr Verhaltnis zur papstlichen Voligewalt", 359; *Rom und die Patriarchate des Ostens*, 247-296; H. J. Schulz,

In addition to the development of the universal jurisdictional primacy of the Roman Pontiff, the appointment of Latin patriarchs in the Eastern regions during the Crusades also contributed to the new concept of patriarchal power. Beginning in the late eleventh century, the Crusaders confiscated traditional Eastern territories, and Latin patriarchates were established. The first Latin patriarchates were established in Antioch (1098) and Jerusalem (1099). The Fourth Crusade led to the sack and occupation of Constantinople and the establishment of a Latin patriarchate in 1204, thus perpetuating the "Great Schism". Later, a Latin patriarchate was also constituted in Alexandria in 1209[17]. It goes without saying that the Latin patriarchs were appointed, transferred and deposed by the Roman Pontiff at his will, as were the metropolitans of the Latin Church. Therefore, patriarchal power began to be considered simply a share in the supreme power of the Roman Pontiff and patriarchal rights and privileges as papal concessions. Moreover, the Holy See did not regard the Latin patriarchates of the time as a new creation, but as the continuation of the original Eastern patriarchates[18]. Regarding this point Hanz Joachim Schulz observes:

> The change of attitude came about largely through the regrettable erection of Latin patriarchates in the East during the crusades. Rome saw in these patriarchates the rightful heirs of the former Eastern sees,

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"Dialogue with the Orthodox", 137; V. Parlato, *L'ufficio patriarcale nelle Chiese orientali*, 113-114.

[17] G. Řezáč, "The Extension of the Power of the Patriarchs and of the Eastern Churches in General over the Faithful of Their Own Rite", in *Concilium* 8 (1969) 60-61; T. Kane, *The Jurisdiction of the Patriarchs of the Major Sees in Antiquity and in the Middle Ages*, Washington 1949, 77-82; P. Schaff, *History of the Christian Church, Volume V,* 125-158; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume IV*, 154-158.

[18] Cf. Y. Congar, "Le pape comme patriarche d'occident", 381; "Church Structures and Councils", 229; W. De Vries, *Rom und die Patriarchate des Ostens*, 248; "Die Entstehung der Patriarchate des Ostens", 359-361. When the kingdoms created by the Crusaders became extinct the Latin patriarchs of the Eastern regions were considered titular patriarchs and for many centuries they were dignitaries of the papal court. Pope Pius IX (1846-1878) reconfirmed the Latin Patriarchate of Jerusalem and restored jurisdiction to its patriarch with the apostolic letter *Nulla celebrior* of 23 July 1847. *Iuris Pontificii (Ius Pontificium) de Propaganda Fide*, R. De Martinis (ed.), vol. VI, Pars Prima, Romae 1894, 40-44; cf. "Patriarcati latini" under the section "Note storiche" in the *Annuario Pontificio* of any year.

> but considered their incumbents in the same way as the Latin metropolitans in the West whose particular position could hardly be interpreted otherwise than as a special sharing in the supreme power of the Pope. Later the incumbents of the old patriarchates also were treated in the same way […][19].

Consequently, the Eastern patriarchs who entered into full communion with the Catholic Church were treated in the same way as the Latin patriarchs appointed by Rome.

Gradually, the pallium, which had been indispensable since the ninth century for the exercise of metropolitan jurisdiction in the West and later for the Latin patriarchs, was made obligatory for patriarchs in general at the Fourth Lateran Council (1215). On the dignity of the patriarchs and the importance of the pallium, Pope Innocent III states, with the approval of the Council:

> Renewing the ancient privileges of the patriarchal sees, we decree, with the approval of this sacred universal synod, that after the Roman Church, which through the Lord's disposition has a primacy of ordinary power over all other churches in as much as it is the mother and mistress of all Christ's faithful, the Church of Constantinople shall have the fist place, the church of Alexandria the second place, the Church of Antioch the third place, and the church of Jerusalem the fourth place, each maintaining its own rank. Thus after their pontiffs have received from the Roman Pontiff the pallium, which is the sign of the fullness of the pontifical office, and have taken an oath of fidelity and obedience to him, they may lawfully confer the pallium on their suffragans, receiving from them for themselves canonical profession and for the Roman church the promise of obedience […][20].

In accordance with this decree, the pallium was also imposed on the Eastern patriarchs who entered into full communion with the Catholic Church[21]. The pallium was considered a symbol of the

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[19] H. J. Schulz, "Dialogue with the Orthodox", 138; cf. also W. De Vries, "The Eastern Patriarchates and Their Relationship to the Power of the Pope", 132.

[20] Lateran IV, constitution 5: *Decrees of the Ecumenical Councils*, vol. I, 236; *Conciliorum oecumenicorum decreta*, 236.

[21] W. De Vries, "La S. Sede ed i patriarcati", 326-339; for the historical analysis of the imposition of the pallium on the heads of Eastern Churches: G. Orioli, "La collazione del pallio", in *Nuntia* 2 (1976) 93-96.

fullness of papal power, and through the pallium patriarchal and other jurisdictions were seen as emanating from and sharing in the *plenitude potestatis* of the Roman Pontiff. The bestowal of the pallium precisely meant the admission of this participation and thus the conferral of the office[22]. The same idea of patriarchal privilege can be seen in the profession of faith of Michael Palaeologus, which was read at the Council of Lyons (1274) and which has already been cited in the discussion of the development of the universal primacy of the popes. It states that the fullness of the power of the Roman Church "is so firm that she admits the other Churches to share in her solicitude. The same Roman Church has honoured many of those Churches, and especially the patriarchal Churches, with various privileges, its own prerogatives being, however, always observed and safeguarded both in general councils and in some other matters"[23].

3.2. Synodal Election of Patriarch as the Proposal of a Candidate for Appointment by the Roman Pontiff

As a result of these developments in the second millennium the synodal election of patriarchs became almost synonymous with the proposal of candidates to the Roman Pontiff for appointment. Even before the First Vatican Council Pope Pius IX took drastic steps to modify the Eastern canonical discipline concerning the election of patriarchs and bishops in the Armenian Catholic Church. In the Ottoman Empire the patriarchs were considered the religious and civil heads of the community and in the Armenian Church patriarchs and bishops were elected with the participation of priests, monks and lay Christian faithful. One of the main reasons for the conflicts between Pope Pius IX and the Eastern Catholic Churches was the

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[22] H. Marot, "The Primacy and the Decentralization of the Early Church", 14. For a detailed analysis of the meaning of the paillum and the effects of its bestowal on the Eastern patriarchs: W. De Vries, *Rom und die Patriarchate des Ostens*, 247-260; "The Eastern Patriarchates and Their Relationship to the Power of the Pope", 134-136; "Die Entstehung der Patriarchate des Ostens", 362-365; V. J. Pospishil, *Code of Oriental Canon Law, The Law on Persons*, Ford City 1960, 123.

[23] *Enchiridion symbolorum*, n. 861; Mansi 24, 71; *The Christian Faith* no. 29.

Pope's desire to control the election of patriarchs and to reserve the appointment of bishops for himself. As Giacomo Martina rightly points out:

> Pope Pius IX wanted to remove the election of patriarchs and bishops from the influence of the laity at all costs; he did not want to entrust the election entirely to the local episcopate, but to reserve the appointment to himself, or at least to be controlled by him. All this meant abandoning centuries-old practises, renouncing the great autonomy that the various Eastern Churches had enjoyed for centuries, and inevitably led to bitterness and harsh conflicts[24].

The first of these conflicts erupted between the Pope and the Armenian Catholic Church regarding the election of patriarch, which eventually led to a new schism in the Armenian Catholic Church[25].

From the XIX century onwards, there were two primatial sees and two centres of authority in the Armenian Catholic Church: the Catholic patriarchate of Cilicia of the Armenians with the see in the remote village of Bzommar in Lebanon (where the Maronites had sheltered the Armenian Patriarch from 1740 to protect him from persecutions) and the primatial archbishopric of Constantinople erected by Pope Pius VIII on 6 July 1830[26]. In a secret consistory on 12 July 1867, Pope Pius IX finally abolished the primatial and archbishopric status of the Armenian See of Constantinople and united it with the Patriarchate of Cilicia of the Armenians; the Pope also confirmed the election of Anthony Hassoun as Patriarch of the united Armenian patriarchate and conferred on him the sacred pallium. The formula used by the Pope is as follows:

Auctoritate Omnipotentis Dei, Sanctorum Apostolorum Petri et Pauli, ac Nostra commemoratae Sedis Constantinopolitanae a	By the authority of Almighty God, the holy Apostles Peter and Paul, and of Our own authority, We suppress the primatial and

[24] G. Martina, *Pio IX (1867-1878),* 53.

[25] G. Martina, *Pio IX (1867-1878),* 78-96; *Storia della Chiesa XXI/2: Il Pontificato di Pio IX*, 640-643; C. A. Frazee*, Catholics and Sultans: the Church and the Ottoman Empire*, 266-268.

[26] Cf. Congregation for the Eastern Churches, *The Catholic East*, 291-292; G. Martina, *Pio IX (1867-1878)*, 61-62; H. Jedin and J. Dolan (eds.), *History of the Church*, *Volume VIII,* 171.

felicis recordationis Pio VIII Decessore Nostro erectae Primatialem et Archiepiscopalem titulum extinguimus, et ecclesiasticam eiusdem Sedis provinciam cum Patriarchatu Ciliciae Armenorum perpetuo coniungimus: confirmamus, et approbamus electionem, seu postulationem a Venerabilibus Fratribus Episcopis Armeniis Ciliciae factam de persona Venerabilis Fratris Antonii Hassun, Ciliciae Patriarcham Armenorum constituimus, praeficientes eum in Patriarcham et Pastorem eiusdem Patriarchalis Ecclesiae, prout in Decreto et Schedula Consistorialibus exprimetur, contrariis quibuscumque non obstantibus. In Nomine Patris et Filii et Spiritus Sancti. Amen[27]	archbishopric titles of the See of Constantinople, erected by Our predecessor of happy memory, Pius VIII, and permanently unite the ecclesiastical province of the same See with the Patriarchate of the Armenians of Cilicia: We confirm and approve the election, or postulation, made by the Venerable Brothers, the Armenian Bishops of Cilicia, of the person of Venerable Brother Anthony Hassun, and apppoint him Patriarch and Pastor of the same Patriarchal Church, as will be expressed in the Consistorial Decree and on the separate sheet, notwithstanding anything to the contrary. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen.

In the same address to the secret consistory of 12 July 1867, convened for the confirmation of Patriarch Anthony Hassun, Pope Pius IX declared his decision to change the discipline regarding the election of patriarchs and bishops in the Eastern Catholic Churches, reserving to himself the confirmation of the election of patriarchs and the appointment of bishops[28].

In fact, on the same day (12 July 1867), the Pope promulgated the apostolic letter *Reversurus* (*ex hoc mundo*), which modified the Eastern canonical discipline in the Armenian Church[29]. In the first part of the apostolic letter, the Pope emphasised the universal primacy of papal jurisdiction, which was defined in the council of Florence in the presence of the Orientals, as well as the practice of

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[27] *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, Romae 1868, 302-303.

[28] Pius IX, Allocution *Cum ex hac vita*, in *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 296-303.

[29] Pius IX, Ap. letter *Reversurus*, in *ASS* 3 (1887) 386-393; in *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 304-310; also in *Iuris Pontificii de Propaganda Fide,* vol. VI/1, 453-458.

patriarchs receiving the Pope's letter of confirmation since ancient times. The Pope then continues with the history of the Armenian Catholic Church: the reunion of Abraham Peter I and the establishment of the Armenian Patriarchate of Silicia, the constitution of the primatial archiepiscopal see of Constantinople, the unification of the Patriarchate, the Armenian schism and the confirmation of Anthony Hassun as the first Patriarch of the united Armenian Catholic Church[30].

The Pope then proceeded to modify the Eastern canonical discipline regarding the election of patriarchs and bishops. The most important changes concerning the election of the Patriarch were: 1) prohibition of the Armenian tradition which allowed the participation of the Christian faithful and priests in the election; 2) confirmation of the election or postulation by the Pope before enthronement; 3) prohibition of the exercise of patriarchal powers before the conferral of the pallium; 4) prescription of an *ad limina* visit every five years; and 5) restriction of the alienation of temporal goods by the Patriarch. The original text of the apostolic letter *Reversurus* on the election of the Patriarch is reproduced with our own English translation:

In electione autem Patriarchae solis Episcopis ius erit suffragii ferendi, exclusis omnino Clericis et Sacerdotibus, qui episcopali chara- ctere non polleant. Nemo vero laicorum in eadem electione semet inserere, ullamque partem possit habere quovis quaesito colore vel praetextu.	However, only bishops are entitled to vote in the election of the Patriarch; clerics and priests, who have no episcopal character, are completely excluded. Certainly, none of the laity can interfere in the same election and take part in it under any unusual pretence or excuse.
Porro electum Patriarcham neque, uti aiunt, inthronizari, neque ullum ius aut iurisdictionem, ne procuratòrio quidem aut vicario nomine vel titulo, in Patriarchatum habere volumus, nisi prius eiusdem electio seu postulatio a Nobis vel a	Moreover, we do not wish the patriarch-elect to be enthroned, as they say, or to acquire any right or jurisdiction, even by a procuratorial or vicarious name or title in the patriarchate, unless his election or postulation has been

[30] Pius IX, Ap. letter *Reversurus*, *ASS* 3 (1887) 386-390; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 304-317.

Romano Pontifice pro tempore existente fuerit admissa et de more confirmata, atque Apostolicae litterae confirmationis eiusdem fuerint expeditae, sublata qualibet contraria consuetudine.

previously approved by us or by the contemporary Roman Pontiff and confirmed according to custom, and the apostolic letter of his confirmation has been obtained, after every custom to the contrary has been abolished.

Eidem Patriarchae, quamvis ab Apostolica Sede uti supra confirmato, non licebit Episcopos consecrare nec convocare concilium, nec chrisma conficere, neque ecclesias dedicare, nec clericos ordinare antequam ab Apostolica Sede sacrum Pallium obtinuerit.

The same patriarch, although confirmed by the Apostolic See as stated above, will not be permitted to consecrate bishops, convoke a synod, consecrate chrism, consecrate churches, or ordain clerics, until he has received the sacred pallium from the Apostolic See.

Praedicto autem Pallio Patriarcha uti tantum poterit in Missarum solemniis intra fines et in ecclesiis sui Patriarchatus sequentibus dumtaxat diebus; videlicet in Nativitate Domini Nostri Iesu Christi [...].

However, the Patriarch will be able to use the above-mentioned pallium only during solemn Masses within the boundaries and in the churches of his patriarchate on the following days; that is, on the Nativity of Our Lord Jesus Christ […].

Sacra limina Beatissimorum Apostolorum Petri et Pauli singulis quinquenniis Patriarcha personaliter et per se ipsum visitabit, Romanoque Pontifici pro tempore existenti rationem reddet de toto suo pastorali officio, ac dé rebus omnibus ad patriarchatus sui statum pertine-ntibus; eiusdemque monita et mandata humiliter excipiet ac diligentissime exequetur [31].

Every five years the Patriarch shall personally visit the holy thresholds of the blessed Apostles Peter and Paul and render an account to the contemporary Roman Pontiff of his entire pastoral office and of all matters concerning the state of his Patriarchate; he shall humbly receive his advice and orders and carry them out with the greatest care.

According to the apostolic letter *Reversurus*, two juridical acts of the Apostolic See were required for a patriarchal election to take place: firstly, confirmation of the election by the Roman Pontiff and

[31] Pius IX, Ap. Letter *Reversurus*, *ASS* 3 (1887) 390-391; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 312-313.

then the conferral of the pallium. Before the pallium was conferred, the elected and confirmed Patriarch could not even exercise episcopal powers such as the consecration of churches and the ordination of clerics. Because of these modifications, the synodal election of patriarchs became almost tantamount to proposing a candidate for appointment.

In the context of the conflicts between Pope Pius IX and Chaldean Patriarch Joseph IV Audo (1848-1878) the same procedure for the election of the patriarch was extended to the Chaldean Catholic Church by the apostolic constitution *Cum ecclesiastica (disciplina)* of 31 August 1869[32]. Since the norms on the election of the Patriarch are completely identical in both documents, they are not reproduced again, to avoid repetition.

The laws on the election of the patriarch in the first common Eastern legislation motu proprio *Cleri Sanctitati* (cc 221-239), promulgated by Pope Pius XII on 2 June 1957, were formulated almost in accordance with the concept of patriarchal power in the second millennium[33]. This is already evident in the very structure of *Cleri Sanctitati* and in the systematic arrangement of the canons. The canons concerning patriarchs (chapter VI, cc. 216-314) follow the canons on the cardinals of the Holy Roman Church (chapter III, cc. 175-187), the Roman Curia (chapter IV, cc. 188-210) and the legates of the Roman Pontiff (chapter V, cc. 211-215). The Eastern legislation thus placed the patriarchs after the cardinals, major officials of the Roman Curia and even after the representatives of

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[32] Pius IX, Ap. Letter *Cum ecclesiastica disciplina*, in *Iuris Pontificii* (*Ius Pontificium) de Propaganda Fide*, R. De Martinis (ed.), VI, Pars Secunda, Romae 1894, 34; also in *Pii IX Pontificis Maximi Acta, Pars prima*, vol. V, Romae 1871, 38-47. For the historical context of the Apostolic Constitution *Cum ecclesiastica disciplina*, see G. Martina, *Pio IX (1867-1878)*, 96-108; J. Habbi, "Les Chaldéens et les Malabares au XIX siècle", 82-107; C. A. Frazee*, Catholics and Sultans: the Church and the Ottoman Empire*, 299-301; P. Pallath, *Rome and Chaldean Patriarchate in Conflict: Schism of Bishop Rokos in India*, Changanacherry 2017.

[33] Pius XII, motu proprio *Cleri sanctitati*, in *AAS* 49 (1957) 433-600; English trans., P. Pallath (ed.), *Code of Eastern Canon Law: English Translation of the Four Apostolic Letters Issued Motu Proprio by Pope Pius XII*, Kottayam 2021, 443-651.

the Pope such as nuncios, inter-nuncios or apostolic delegates, some of whom were simply priests[34].

The very title under which the canons on the patriarchs are placed, namely *De suprema potestate deque iis qui eiusdem sunt canonico iure participes*, indicates that in canon law the patriarchs are accorded a share in the supreme power which belongs to the Roman Pontiff alone. Prof. Clarence Gallagher is very clear on this point:

> It is only in Chapter VI that the current law for the eastern Churches comes to deal with the patriarch (cc.216-314). The order is itself significant and expresses an underlying ecclesiology. Interesting, too, is the heading given to this whole section of the law: '*De suprema potestate deque iis qui eiusdem sunt canonico iure participes*'. This implies that the patriarchs are granted by canon law a share in the supreme power that, by divine law, belongs only to the Bishop of Rome. In this view patriarchal jurisdiction is understood as a participation in or a derivation from the power of the Roman Pontiff, similar to that granted by the Pope to the Roman congregations[35].

The prescriptions of Pope Pius IX cited above concerning the election of patriarchs, were not fully incorporated into the Eastern legislation, when the elected patriarch was an ordained bishop or at least a canonically elected and confirmed bishop. In such cases, the synod could proceed immediately after the election to the proclamation and enthronement according to the liturgical books (c. 235 § 2). However, if the person elected was a priest who had not yet been legitimately elected and confirmed as a bishop, the synod had to notify the Roman Pontiff immediately of the result of the election and suspend the proclamation and enthronement of the person elected (c. 235 § 3, n. 1). The proclamation and enthronement of the patriarch could only take place once the Roman Pontiff's confirmation had been received (c. 235 § 3, n. 3).

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[34] Cf. P. K. Medawar, "The Rights of the Eastern Church", in Maximos IV Sayegh, *The Eastern Churches and Catholic Unity*, New York 1963, 48-51.

[35] C. Gallagher, "Concept of 'Protos' in the Eastern Catholic Churches", in 99-100; cf. also V. J. 'Pospishil, *Code of Oriental Canon Law, The Law on Persons*, 114; E. Eid, *La figure juridique du patriarche*, 89-91.

In both cases, however, the patriarchs were to request the pallium and ecclesiastical communion from the Roman Pontiff. Both the patriarch and the synod were to send the Roman Pontiff separate reports on the canonical accomplishment of the election, as well as profession of faith and oath of fidelity pronounced by the patriarch. The Synod and the patriarch should also request ecclesiastical communion and the pallium, "which is an insignia of the fullness of the pontifical office" (c. 236). In accordance with the restrictions introduced by Pope Pius IX, as cited above, *Cleri Sanctitati* prescribes that "the patriarch who has been lawfully elected and enthroned, is prohibited to convoke the patriarchal synod […], and to elect or ordain bishops before he has solemnly received confirmation and the pallium in a consistory" (c. 238 § 3).

According to *Cleri Sanctitati* the canonically elected and enthroned patriarch obtained only the "full right to his office" "and not the office itself[36]. Accordingly, the granting of confirmation and pallium seems to be practically equivalent to an appointment, for he received his office through confirmation; if this was denied, the newly elected one lost his rights to the office and the synod had to elect another patriarch.

3. 3. Modification of the Synodal Election of Bishops

According to the undivided tradition of the Church, bishops and metropolitans were freely elected by the synods of each Church without the intervention of other Churches. The ecumenical councils and the important regional councils reserved the election of bishops exclusively to the provincial synods[37]. Wilhelm De Vries categorically states:

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[36] *Cleri Sanctitati,* c. 238 § 1. "Patriarcha ad normam can. 235 electus et inthronizatus plenum ius in officio obtinet firma § 3".

[37] Ecumenical councils- Nicaea cc. 4, 6; cf. Chalcedon c. 28; Nicaea II c. 3; Provincial synods - Antioch, cc. 19, 23; cf. Sardica c. 5; Laodicea c.12; Carthage c. 12. For details, see P. Pallath, *Local Episcopal Bodies in East and West*, 53-62; D. Salachas, *Il Diritto canonico delle Chiese orientali nel primo millennio*, 119-133.

> We do not know a single case of a direct appointment of a metropolitan or ordinary bishop by Rome that took place in the territory of the Eastern patriarchates in the first millennium"[38].

Prior to the re-establishment of the patriarchates of the Eastern Churches that entered into full communion with the Catholic Church and the holding of their respective synods, bishops were elected in the provincial synods, considering the wishes of the clergy and the Christian faithful[39].

In the Western Church too, the election of bishops was the right of the local Church. Pope Innocent I (401-417) urged that the election of bishops should be conducted according to the norms of Nicaea[40]. According to Pope Leo I (the Great, 440-461), it is the right of each local Church in immediate communion with other churches to elect the bishops[41]. In the Latin Church too, throughout the first millennium bishops were elected in provincial or regional synods according to the prescriptions of ecumenical councils in consultation with the clergy and the people of God[42]. The popes intervened during this period only to safeguard the autonomy of the electoral synods from undue interference by emperors and kings[43].

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[38] W. De Wries, "La S. Sede ed i patriarcati", 321; cf. "The Origin of the Eastern Patriarchates and Their Relationship to the Power of the Pope", 66; *Rom und die Patriarchate des Ostens*, 20; cf. also V. Parlato, *L'ufficio patriarcale*, 80-87; M. M. Wojnar, "Decree on Oriental Catholic Churches", 202.

[39] Cf. J. Khoury, "La scelta dei vescovi nelle Chiese orientali", in *Concilium* 6 (1981) 53.

[40] "Primum, ut extra conscientiam metropolitani episcopi nullus audeat ordinare (Dist. LXIV, c. 5); integrum enim est iudicium, quod plurimorum sententiis confirmatur: nec unus episcopus ordinare praesumat; ne furtivum beneficium praestitum videatur. Hoc enim et in Synodo Nicaena constitutum est, atque definitum". *Epistola* 2, *PL* 20, 471-472.

[41] Leo I, *Epistola* 14, *PL* 54, 673.

[42] J.-M. R. Tillard, *L'évêque de Rome*, 224; *The Bishop of Rome*, 182; Y. Congar, "Le pape comme patriarche d'occident", 389-390.

[43] Cf. G. Ghirlanda, *Chiesa universale e chiesa particolare*, 530-533.

3.3.1. Election of Bishops in the Synod as a Proposal of Candidates for Appointment

The already cited Apostolic Letter *Reversurus*, promulgated by Pope Pius IX on 12 July 1867, also regulated the appointment of bishops in the Armenian Patriarchal Church[44]. According to *Reversurus*, the patriarchal synod draws up a list of three candidates and submits it to the Roman Pontiff for appointment in a vacant eparchy. The Pope is free to appoint the new bishop from the submitted list or anyone he wishes if none of the candidates on the list is deemed worthy. The original text of the *Reversurus* on the election of bishops is reproduced with our own English translation:

Verum nihil magis animum Nostrum sollicitat atque angit, quam provida Episcoporum electio, a qua praecipue pendent felicitas populorum, ordo ecclesiasticae disciplinae, atque aeterna animarum salus. Animo igitur assidue recolentes, quod sanguinem ovium Christi, quae peribunt ex malo regimine pastorum negligentium, et sui officii immemorum, de manibus Nostris sit requisiturus Dominus Noster Iesus Christus, qui humilitati Nostrae universae Ecclesiae, quanta illa est, regimen et sollicitudinem demandavit, ea quae sequuntur, circa electionem Episcoporum Armenii Patriarchatus, pro Apostolici Nostri ministerii officio ac de Nostrae potestatis plenitudine, tenore praesentium statuimus atque decernimus.	But nothing troubles and disturbs Our mind more than the providential election of bishops, on which the happiness of the people, the order of ecclesiastical discipline, and the eternal salvation of souls chiefly depend. We constantly remember that Our Lord Jesus Christ, who has entrusted to our humility the government and care of the universal Church as it is, will require at our hands the blood of Christ's sheep, who will perish through the bad government of negligent shepherds who are unaware of their office. Therefore, We establish and decree the following regarding the election of the bishops of the Armenian Patriarchate, by virtue of the office of Our apostolic ministry and by the fullness of Our power, according to the tenor of the present (letter).

[44] *ASS* 3 (1867) 386-393; *Iuris Pontificii de Propaganda Fide,* vol. VI/1, 453-458.

Quoties aliquam dioecesim memorati Patriarchatus vacare continget, Patriarcha quamprimum synodum indicat universorum Episcoporum eiusdem Patriarchatus; quo facto, ab eodem Patriarcha et Episcopis synodaliter congregatis tres idonei Ecclesiastici viri, collatis consiliis, Romano Pontifici pro tempore existenti proponantur, ut ex illis digniorem et magis idoneum eligere, et vacanti Episcopali Sedi providere possit. Non dubitamus autem, quin iidem Episcopi dignos ac vere idoneos viros proponere studeant, ne umquam cogamur Nos vel Successores Nostri pro eiusdem Apostolici ministerii officio alium, licet ab eis non propositum, episcopali dignitate augere, et vacanti Ecclesiae praeficere. Quod si propter instantem necessitatem, aut itineris longitudinem universi Episcopi ad synodum uti supra a Patriarcha indicatam accedere non poterunt, tres saltem Episcopi propriam dioecesim cum iurisdictione habentes una cum memorato Patriarcha in eamdem synodum omnino conveniant, absentibus ternariam suam propositionem scripto significantibus. Volumus autem ut universa acta eiusdem Synodi ad praefatam Congregationem de Propaganda Fide Orientalium Ecclesiarum Negotiis praepositam per nostrum et huius Sanctae Sedis Apostolicum Delegatum transmittantur, ut diligenti primum trutina ab eadem Congregatione expensa,

Whenever a diocese of the said patriarchate becomes vacant, the Patriarch should as soon as possible convene a synod of all the bishops of the same patriarchate; where-upon the Patriarch and the bishops, having assembled in synod, should after mutual consultation, propose to the contemporary Roman Pontiff three suitable clergymen, that he may choose from among them a more worthy and suitable one to fill the vacant episcopal see. We have no doubt, however, that the same bishops will endeavour to propose worthy and truly suitable men, so that we or our successors will never be forced to appoint another person to the office of the same apostolic ministry, even if he has not been proposed by them, in order to enhance the episcopal dignity and preside over a vacant Church. If however, owing to urgent necessity, or the length of the journey, not all bishops can come to the synod convoked by the Patriarch as indicated above, at least three bishops who have their own dioceses with jurisdiction, must meet together with the aforesaid Patriarch in the same synod, the absent bishops signifying their ternary proposal in writing. And We desire that all the proceedings of the same synod be transmitted through Our Apostolic Delegate and of this Holy See to the above-mentioned Congregation of Propaganda Fide for the Affairs of the Eastern

demum Nostro et Successorum Nostrorum iudicio subiiciantur[45].	Churches, so that, after a first careful examination by the same Congregation, they should be submitted to Our judgement and to Our successors.

In practice the ancient tradition of the free election of bishops in the synod of bishops convoked and presided over by the Patriarch was reduced to the mere proposal of three candidates (*ternus*) for appointment by the Pope. In fact, after the selection of the three candidates, all the acts of the synod, together with their names, had to be forwarded through the Apostolic Delegate to the Congregation for the Propagation of the Faith for the Affairs of the Eastern Churches, which examined the names and submitted them to the Pope for appointment[46]. In brief, the same procedure for the appointment of bishops that was prevalent in the Latin Church at that time was also applied to the Armenian Catholic Church. The promulgation of *Reversurus* effectively terminated the administrative autonomy of the Armenian patriarchate.

The modification in the synodal election of the Patriarch and bishops in the Armenian Church was a first step towards a general change in Eastern discipline. In the apostolic letter *Reversurus* itself the Pope Pius IX clearly expressed his desire to extend the same procedures to all the Eastern Catholic Churches:

> And while we are deciding these things for the election of bishops of the Armenians, we do not forget the other Patriarchates of the Eastern rite, for whom we will also take care to regulate this very important task of electing bishops as soon as possible, as we have already publicly announced to our venerable brothers the Patriarchs of the Maronites and Melkites, and to the other Eastern Patriarchs currently residing in Rome[47].

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[45] Pius IX, Ap. Letter *Reversurus*, *ASS* 3 (1887) 391-392; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 314-315.

[46] Pius IX, Ap. Letter *Reversurus*, *ASS* 3 (1887) 392; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 313.

[47] Pius IX, Ap. Letter *Reversurus*, *ASS* 3 (1887) 392; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. IV, 313.

Although Pius IX intended to make *Reversurus* a model for the other Eastern Catholic Churches, this possibility was prevented by the immediate intervention of the Maronite and Melkite Patriarchs who were in Rome at the time. Later, it was only applied to Chaldean and Syrian Churches[48].

In the context of the conflicts between Pope Pius IX and the Chaldean Patriarch Joseph IV Audo (1848-1878) the same procedure for papal appointment of bishops was also extended to the Chaldean Catholic Church by the already cited Apostolic Constitution *Cum ecclesiastica disciplina* of 31 August 1869[49]. The Roman Pontiff also appointed bishops in the Syrian and Coptic Churches according to the same procedure[50]. Of course, in the non-patriarchal Churches bishops were appointed directly by the Roman Pontiff.

Pope Pius IX died on 7 February 1878 before he modified the Eastern discipline for the election of patriarchs and bishops in the other Catholic Eastern Churches. Thus, even in the second millennium, bishops continued to be freely elected by the patriarchal synods in the Maronite and Melkite patriarchal Churches in the spirit of the ancient canons. The name of the newly elected bishop was communicated to the Holy See for information[51] Consequently, two separate disciplines for the election of bishops prevailed in the Eastern Catholic Churches from the time of Pope Pius IX until the promulgation of the common Eastern discipline *Cleri Sanctitati* by Pope Pius XII on 2 June 1957.

3.3.2. Election of Bishops according to *Cleri Sanctitati*

The election of bishops according to *Cleri Sanctitati* is not treated comprehensively, but only some relevant points related to

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[48] Cf. C. A. Frazee, *Catholics and Sultans: the Church and the Ottoman Empire*, 233.

[49] Pius IX, *Cum ecclesiastica disciplina*, *Iuris Pontificii de Propaganda Fide*, vol. VI/2, 34; *Pii IX Pontificis Maximi Acta, Pars prima*, vol. V, Romae 1871, 38–47.

[50] Cf. J. Khoury, "La sceltà dei vescovi", 56.

[51] M. Brogi, "Nomine vescovili nelle Chiese orientali cattoliche", in *Kanon* 7 (1985), 128; J. Khoury, "La scelta dei vescovi", 53-55 & 57.

the theme[52]. The rigorous prescriptions of Pope Pius IX concerning the election of bishops were not fully incorporated into the Eastern legislation as found in the *motu proprio Cleri Sanctitati* promulgated in 1957, which provides two types of procedures for the election of bishops in patriarchal Churches. According to the normal procedure, after the preliminary preparations, the patriarch convokes a "synod for election", and the fathers assembled in the synod freely elect the one (a single priest, not three) whom they deem worthy and qualified before the Lord above all others (c. 252 § 2). After the election the patriarch must immediately report the election to the Roman Pontiff for confirmation of the one elected (c. 253 §1). It is forbidden to reveal the name of the elected to anyone, including the elected himself, before the authentic notification of the confirmation (c. 253 § 2). If confirmation is denied, the only option is to convoke the synod again and elect another person, because according to canon 392 § 2 bishops are freely appointed by the Roman Pontiff or, if lawfully elected, confirmed by him. Thus, this procedure discredits the patriarch and the synod if the candidate is not confirmed by the Roman Pontiff. In short, according to this procedure, a bishop becomes a bishop not by election but by confirmation by the Roman Pontiff and thus the election becomes almost equivalent to proposing a candidate to the Roman Pontiff for appointment. However, compared to the regulations of Pope Pius IX, an improvement was made; instead of three candidates for appointment, a single candidate could be presented to the Roman Pontiff for confirmation; the right of the Roman Pontiff to appoint a bishop, without the participation of the patriarchal synod is not mentioned.

According to the second manner of election (c. 254 §§ 1-2), the Synod of Bishops, "in order to make provision for vacant eparchies more expeditiously", may draw up a list of candidates, priests qualified for episcopate by secret ballot with an absolute majority. This list must be submitted to the Roman Pontiff for his approval. Once approved, the Synod of Bishops may elect a person to the

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[52] For more information concerning the election of bishops according to *Cleri Sanctitati*: E. Eid, *La figure juridique du patriarche*,138-141; M. Brogi, "Nomine vescovili nelle Chiese orientali cattoliche", 128-131; P. Pallath, *Local Episcopal Bodies in East and West*, 199-201.

episcopate from this list in the event of a vacancy or the erection of a new eparchy, without further intervention from Rome. The only obligation is to inform the Apostolic See that the election has taken place. This form of election, which appears in *Cleri Sanctitati* as a secondary method of expediting the appointment of bishops, seems more respectful of the right of the Synod of Bishops to elect bishops.

4. Decadence of Synodality in the West

In the first millennium, even in the West, there were various types of local episcopal bodies for collegial governance, based mainly on the canons of ecumenical councils and generally recognised local synods. In the West, they were generally called particular councils, which can be divided into provincial councils and plenary or national councils. In this section we discuss the gradual decline of conciliar activity in the West in light of the legislation of the general (ecumenical) councils of the second millennium up to the Second Vatican Council.

4.1. Gradual Disappearance of Particular Councils

The Council of Nicaea I canon five and the Council of Chalcedon canon twenty-eight established that provincial councils should be held twice a year; and Nicaea II canon six ordered the obligatory convocation of a provincial council in each province at least once a year, although there are some difficulties. According to the legislation of the ecumenical councils, provincial synods and plenary councils were also held in the West[53].

4.1.1. Legislation of the Ecumenical Councils of the Second Millennium on Particular Councils

The Fourth Lateran Council (1215) reminded metropolitans of the ancient canonical tradition of convoking provincial synods. The purpose of such councils, according to the Lateran Council IV, is to correct excesses, reform customs, and punish transgressors (judicial function). The sixth constitution of the council states:

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[53] For details: P. Pallath, *Local Episcopal Bodies in East and West*, 46-90.

> As is known to have been ordained of old by the holy fathers, metropolitans should not fail to hold provincial councils each year with their suffragans in which they consider diligently and in the fear of God the correction of excesses and the reform of morals, especially among the clergy. Let them recite the canonical rules, especially those which have been laid down by this general council, so as to secure their observance, inflicting on transgressors the punishment due. In order that this may be done more effectively, let them appoint for each diocese suitable persons, that is to say prudent and honest persons, who will simply and summarily, without any jurisdiction, throughout the whole year, carefully investigate what needs correction or reform and will then faithfully report these matters to the metropolitan and suffragans and others at the next council, so that they may proceed with careful deliberation against these and other matters according to what is profitable and decent. Let them see to the observance of the things that they decree, publishing them in episcopal synods which are to be held annually in each diocese. Whoever neglects to carry out this salutary statute is to be suspended from his benefices and from the execution of his office, until his superior decides to release him[54].

The same council also speaks about the judicial power of provincial councils over diocesan bishops. The council observed that some bishops appointed unworthy persons, lacking both scholarship and honest conduct, to ecclesiastical benefices. According to the council, a careful investigation of such abuses was to be conducted each year at the provincial council, and "he who has been found guilty after a first and second correction is to be suspended from conferring benefices by the provincial council, and a prudent and honest person is to be appointed at the same council to make up for the suspended person's failure in this matter [...]. The offence of a metropolitan, however, shall be left by the council to be reported to the judgment of the superior"[55].

The council does not permit the provincial council to take legal action against the metropolitan, the head of the province; the offences of a metropolitan are to be reported "to the superior",

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[54] *Decrees of the Ecumenical Councils,* vol. 1, 236-237; *Conciliorum oecumenicorum decreta*, 236-237.

[55] Lateran IV, Constitution 30, *Decrees of the Ecumenical Councils,* vol. 1, 249; *Conciliorum oecumenicorum decreta*, 249.

namely to the competent Patriarch or to the Roman Pontiff. A suspension imposed on a bishop cannot be lifted without the authority of the Patriarch or the Roman Pontiff[56].

Despite the constant canonical tradition of the Church, reaffirmed by various ecumenical councils in the first millennium and the Fourth Lateran Council, metropolitans were reluctant to celebrate provincial councils. Against this background, the general council of Basel (1431-1445) decreed that provincial councils be convened at least every three years and established penalties for those who neglected to celebrate councils. A provincial council should be attended by the archbishop and all his suffragan bishops and "others who are obliged to take part, after a due summons has been issued to them. If a bishop is prevented by a canonical impediment, he should designate his procurator who participates in the council in his name and reports back what the council decides"[57]. The Council of Basel clearly states the purpose of the provincial councils: 1) correction of errors and reform of morals; 2) careful inquiry into the activities of the metropolitan himself in relation to the points already mentioned; 3) settlement of disputes, disagreements, discords, and feuds; 4) election of suitable persons for the general (ecumenical) council, in a provincial council immediately preceding an impending general council [58].

The Fifth Lateran Council (1512-1517) reiterated the constant tradition of the Church concerning particular councils (provincial), prescribing that a "provincial council is to be held every three years and we decree that even exempt persons are to attend them, notwithstanding any privilege or custom to the contrary. Those who are negligent in these matters are to know that they will incur the

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[56] *Decrees of the Ecumenical Councils,* vol. 1, 249; *Conciliorum oecumenicorum decreta*, 249.

[57] *Decrees of the Ecumenical Councils,* vol. 1, 474; *Conciliorum oecumenicorum decreta*, 474.

[58] *Decrees of the Ecumenical Councils,* vol. 1, 473-476; *Conciliorum oecumenicorum decreta,* 475

penalties contained in the same canons"[59]. The purpose of particular councils, according to the Fifth Lateran Council is as follows:

> [...] it has also been laid down by the sacred canons that the provincial councils and episcopal synods ought to be established by such persons [patriarchs, primates, archbishops and bishops] for the correction of morals, the settlement and limiting of controversies, and the observance of God's commandments, in order that corruptions may be corrected and those neglecting to do these things may be subjected to canonical penalties. In our desire that these canons be faithfully observed, since it is right for us to be interested in what concerns the Christian state, we place a strict obligation on the said patriarchs, primates, archbishops and bishops, in order that they may be able to render to God a worthy account of the office entrusted to them, that they order the canons, councils and synods to be observed inviolably, notwithstanding any privilege whatsoever[60].

The Council of Trent (1545-1563) also treated the question of councils (provincial) and urged that, "Wherever they have elapsed, provincial councils for the control of conduct, correction of abuses, settling disputes and other matters allowed by the sacred canons are to be restored. Hence metropolitans should not omit to summon a council in their province, either personally or if legitimately hindered through their senior suffragan bishop, within one year at least from the end of the present council [Council of Trent], and then at least every three years, after the octave of the Easter resurrection of our Lord Jesus Christ, or at another time more convenient in the tradition of the province"[61]. In order that no bishop may be excluded from participating in a provincial synod, the council regulated that "Bishops not subject to any archbishop should choose a neighbouring metropolitan once and for all and are then obliged to

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[59] *Decrees of the Ecumenical Councils,* vol. 1, 631-632; *Conciliorum oecumenicorum decreta*, 631-632.

[60] *Decrees of the Ecumenical Councils,* vol. 1, 631; *Conciliorum oecumenicorum decreta*, 631.

[61] Council of Trent, Session 24, c. 2, *Decrees of the Ecumenical Councils,* vol. 2, 761; *Conciliorum oecumenicorum decreta*, 761.

take part with the others in his provincial synod and to observe and to see to the observance of all decided at it"[62].

4.1.2. Rigorous Conditions for the Celebration of Particular Councils

After presenting the legislation of the ecumenical councils concerning particular councils, it would not be out of place to point out that in the second millennium some significant changes took place regarding the celebration of particular councils in the West. Throughout the first millennium, metropolitans or primates convened particular councils, presided over them, and promulgated laws in accordance with the decrees of ecumenical councils. However, with the Gregorian reform of the eleventh century, spearheaded especially by Pope Gregory VII (1073-1085)[63], the so-called legatine councils emerged. Accordingly, a legate of the Roman Pontiff convoked councils, presided over them, and gave legal force to the resulting decrees with his signature. Similarly, the Gregorian popes decreed that the permission of the Pope was required to hold a particular council[64].

Pope Sixtus V (1585-1590) made another important change with the publication of the bull *Immensa aeterni* of 22 January 1588, by which he reorganized the Roman Curia and formed 15 permanent congregations, including the Congregation for the Execution and Interpretation of the Council of Trent (later known as the Congregation of the Council). The Congregation was responsible for the authentic interpretation and execution of the disciplinary decrees of the Council of Trent. The Pope prescribed that the conciliar

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[62] Council of Trent, Session 24, c. 2, *Decrees of the Ecumenical Councils*, vol. 2, 761; *Conciliorum oecumenicorum decreta*, 761.

[63] For information about the Gregorian reform, see Chapter Three, no. 2.

[64] S. C. Bonicelli, *I concili particolari da Graziano al concilio di Trento: studio sulla evoluzione del diritto della Chiesa latina*, Brescia 1970, 22-25; P. Hinschius, *System des katholischen Kirchenrechts mit besonderer Rücksicht auf Deutschland*, vol. 3, Berlin 1883, 647; A. Garcia Y Garcia, "Episcopal Conferences in Light of Partiaular Councils during the Second Millenium", in *The Jurist* 48 (1988) 63; H. J. Sieben, "Episcopal Conferences in Light of Particular Councils", 55.

decrees of all provincial councils held anywhere in the world be transmitted to the said Congregation for revision and confirmation[65]. The decrees revised and confirmed by the Holy See acquired legal force after the necessary promulgation. Thus, all conciliar activity in the Latin Church was strictly controlled by the Roman Curia.

The decrees and canons of the ecumenical councils are completely silent about the celebration of national or plenary councils. Such councils were very rarely held. The procedure for celebrating them in the second millennium was almost the same as for provincial councils. Before a plenary council could be convoked, permission had to be obtained from the Pope, who appointed a legate. The papal legate then convened and presided over the councils. The conciliar decrees acquired legal force only after revision and confirmation or approval by the Holy See and subsequent promulgation[66]. Practically, the same procedure was prescribed for the convocation of provincial and patriarchal synods even in the Eastern Catholic Churches[67].

4.1.3. Particular Councils and the *Code of Canon Law* 1917

In the 1917 Code canons 281-291 concerning plenary and provincial councils are collocated under the title VII of the Second Book, entitled *De suprema potestate deque iis qui eiusdem sunt ecclesiastico iure participes.* This arrangement itself demonstrates that the power of particular councils was considered as a participation in the supreme authority of the Roman Pontiff according to ecclesiastical law.

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65 "[…] Et quoniam eodem concilio tridentino decretum est synodos provinciales tertio quoque anno, dioecesanas singulis annis celebrari debere, id in executionis usum ab iis, quorum interest, induci eadem congregatio providebit. Provincialium vero, ubivis terrarum illae celebrentur, decreta ad se mitti praecipiet, eaque singula expendet et recognoscet". Sixtus V, the bull *Immensa aeterni*, no. 22, in *Bullariurn Romanum*, tom. VIII, Romae 1863, 991.

66 P. Hinschius, *System des katholischen Kirchenrechts*, 653-654.

67 For details: J. Hajjar, "Les synodes des Eglises orientales catholiques et l'évêque de Rome", in *Kanon* 2 (1974) 57-63 & 74-81; "The Synod in the Eastern Church", 33.

Both plenary and provincial councils of the Latin tradition are retained in the 1917 Latin Code, although no frequency or obligation was stipulated for the former. A plenary council is the assembly of the bishops of several ecclesiastical provinces, which makes juridically binding decisions for their territory. Canon 281 regulates the convocation of plenary councils:

> Several Ordinaries of ecclesiastical provinces can convene a plenary council, having come with a petition to the Roman Pontiff, who will designate his Legate to convoke and preside over the Council.

According to the canon, the Roman Pontiff ultimately decides the opportunity to hold a plenary council, to whom the bishops concerned should submit a request. Moreover, the Roman Pontiff appoints his legate to convoke and preside over the council.

As we have already noted, the ecumenical councils of the centuries IV-V mandated the holding of provincial councils twice a year; the councils of the centuries VI-XIV fixed their annual holding, and those of the centuries XV-XVIII provided for them at least every three years. Also because of the mentioned restrictions, provincial councils practically died out by the nineteenth century. Against this background, the CIC 1917 stipulated: "In each ecclesiastical province, a provincial council is to be celebrated at least every twenty years" (c. 283). Normally provincial councils are convoked and presided over by the metropolitan (c. 284).

The restrictions on the promulgation of decrees and particular laws imposed on provincial and plenary councils in the second millennium were retained in the 1917 Code. Canon 291 § 1 states:

> At the conclusion of a plenary or provincial Council, the president shall transmit all the acts and decrees to the Holy See, and he shall not promulgate them beforehand until they have been [reviewed] and recognized by the Sacred Congregation of the Council […].

Obviously, the Sacred Congregation revised, corrected and modified the decrees and laws according to the spirit of the times. In summary, due to Roman centralization and other socio-political reasons, synodal and conciliar activity in the Western Church was reduced to a minimum. Bishops and metropolitans appeared as autonomous mini-monarchs directly dependent on the Roman

Pontiff and the Holy See, without the possibility of any collegial or synodal activity and expression of episcopal communion at provincial, regional and national levels.

4.2. Bishops' Conferences as a New Form of Synodality in the Latin Church

The tendency toward centralization and the subsequent concentration of power and ecclesiastical governance in the Holy See led to the emergence of one and the same uniform legislation for the entire Church, to an effective control of conciliar activity at the various levels of ecclesiastical life, and to a remarkable reduction of the competences of diocesan bishops in the legislative field[68]. Joseph Ratzinger affirms:

> Historically it is no doubt that the role of synods in the governance of the Church in the West had undergone a progressive diminution in the course of centuries, especially as administrative decision-making became exercised increasingly by the Apostolic See. This process, though not always without some advantages for local Churches, brought with it an obfuscation of the principle of episcopal collegiality, which was fortunately rediscovered in the theological ressourcement of this century and carne to a kind of fruition at the Second Vatican Council[69].

Collegial or synodal activity, which was moribund in the West, took on a new beginning in the form of episcopal conferences. The origin of episcopal conferences goes back to the spontaneous assemblies of bishops in Belgium (1830) and Germany (1848) in the first half of the nineteenth century. Beginning in 1869, the German bishops met annually in Fulda. The bishops of Bavaria assembled annually in Freising from 1850[70]. The bishops of Austria met in

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[68] A. Anton, *Le conferenze episcopali: istanze intermedie*? *Lo stato teologico della questione*, Cinisello Balsamo 1992, 34-35; cf. also K. Rahner, "On Bishops' Conferences", in *Theological Investigations*, vol. 6, Baltimore 1961, 372.

[69] J. Ratzinger, "Le funzioni sinodali della Chiesa: l'importanza della comunione tra i Vescovi", *L'Osservatore Romano*, 12 gennaio 1996, 4.

[70] P. Huizing, "The Structure of Episcopal Conferences", in *The Jurist* 28 (1968) 164; A Anton, *Le conferenze episcopali*, 48-49; G. Feliciani, *Le conferenze episcopali*, Bologna 1974, 15-22; K. Rahner, "On Bishops' Conferences", 372-373;

Vienna beginning in 1849, and on 3 March 1891 the Austrian Bishops' Conference received approval from Pope Leo XIII with a recommendation for annual meetings[71]. Similar bishops' conferences emerged in various countries such as Spain, Ireland, Portugal, France, Italy and in the countries of Latin America[72]. Pope Leo XIII encouraged these conferences and approved them as a means of promoting regularity and unity of ecclesiastical discipline[73].

Peter Huizing indicates the continuous decline of conciliar activity in the Western Church as a negative reason for the origin of bishops' conferences:

> Canon law knew only of regional or provincial synods. Regional synods were extremely closely tied to the Roman curia. They might not be held without the previous approval of the curia, a pontifical legate was to preside, and their decrees had no force until their revision and approval by the curia. What is more in some countries civil law prohibited the holding of episcopal synods without the previous approval of the civil authority. For these reasons, informal meetings, different from synodal meetings of bishops took the place of formal councils[74].

In the beginning, the bishops' conference provided an opportunity for the bishops of a nation to meet in a short time, free from all the juridical formalities, to discuss and consult on urgent

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W. Aymans, *Das synodale Element in der Kirchenverfassung*, München 1970, 21-22.

[71] "Haec igitur et huiusmodi capita rerum graviora in deliberationem veniat per annos Episcoporum Congresus, quos placet inducere". Leo XIII, "In ipso supremi", in *Leonis XIII, Pontificia Maximi Acta*, vol. XI, Romae 1892, 42.

[72] Cf. G. Feliciani, *Le conferenze episcopali*, 25-40; A. Anton, *Le conferenze episcopali,* 51-57.

[73] Concerning the regional episcopal conferences of Italy, the Pope wrote: "In ciascuna delle mentovate regioni procureranno i vescovi di convenire insieme almeno una volta l'anno per appianare e risolvere con mutuo consiglio la difficoltà, che incontrano nel governo delle rispettive diocesi, per promuovere in tutto la regolarità e uniformità della ecclesiastica disciplina, e per emettere, ove le circostanze lo richiedessero, atti collettivi di qualsiasi specie". Leo XIII, "Alcuni arcivescovi", in *Leonis XIII, Pontificis Maximi Acta*, vol. IX, Romae 1890, 185.

[74] P. Huizing, "The Structure of Episcopal Conferences", 164-165.

problems facing a nation. Karl Rahner writes about the origin and usefulness of conferences:

> Free discussions by individual bishops with one another at bishops' conferences are effective without any participation by the Roman See, as long as they remain within the limits of that jurisdiction within which every bishop can arrive at decisions without any special express permission from Rome in virtue of his *potestas ordinaria* which makes him more than a mere official of Rome [...]. In addition the episcopal conferences are not bound by the prescriptions of CIC c. 281-291 concerning the methods of convocation and procedure of plenary and provincial synods, and are in this way much more easily able to accommodate themselves to the circumstances of the place, the needs of the time, and the nature of matter under discussion, and so are also technically easier to organize[75].

Moreover, in some countries the civil authorities also intervened in the conciliar activity of the local Church[76]. Therefore it is right to affirm that episcopal assemblies began in the Latin Church because of the restrictions imposed on the celebration of particular councils either by the Holy See or by the local civil authority[77].

On the one hand, conciliar or synodal activities were almost completely absent in the West; on the other hand, the rapid cultural, sociopolitical, and economic changes of the nineteenth century required mutual consultation and cooperation among bishops at the national level. The revolutionary changes at the beginning of XX century, such as the separation of Church and state, the secularization of the state, the phenomenon of rapid socialization, the changes in family, social, and religious life with their specific problems, and the resurgence of nationalism, presented the Church with serious problems that required coordination and cooperation

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[75] K. Rahner, "On Bishops Conferences", 374.

[76] For example, in Spain in 1590 Emperor Philip II prohibited the celebration of councils without the royal permission and required the presence of a royal delegate in the conciliar assembly as well as royal approbation of the results. A. Garcia Y Garcia, "Episcopal Conferences in Light of Particular Councils", 66-67.

[77] G. Ghirlanda, "Conferenza dei vescovi", in *Nuovo dizionario di diritto canonico*, a cura di C. C. Salvador, V. de Paolis & G. Ghirlanda, Cinisello Balsamo (Milano) 1993, 252.

among all bishops at the national level. Therefore, the bishops of a nation who shared the same religious and socio-cultural ethos joined together in common consultations, giving rise to the bishops' conferences[78].

The purpose of such assemblies was mutual consultation on new common problems. Unlike conciliar assemblies, these gatherings lacked legislative power. The bishops could bind themselves by mutual consent. They could sanction the decrees they adopted together by their own diocesan laws. However, canonically binding laws of national episcopal assemblies were not recognized by the common law[79]. Thus, the bishops of a nation gathered to consult and inform each other, and such a *conventus episcoporum* thus constituted an organ of coordination and cooperation on general ecclesiastical problems that required common pastoral action in one or more nations[80].

Although several national bishops' conferences were formed around the world even with the recognition of Roman Pontiffs, these conferences did not find any recognition in the 1917 *Code of Canon Law*, because their activity, especially their relationship with the central authority, was suspect. The only canon that can refer to bishops' conferences is canon 292 §1, which concerns the meeting of bishops under the metropolitan for mutual consultation:

> Unless otherwise provided by the Apostolic See for particular places, the Metropolitan, or in his absence the senior among the Suffragans according to Canon 284, shall take care that local Ordinaries, at least every five years, at a set time, come together at the place of the Metropolitan or of one of the other Bishops, so that, gathered together in council, they may examine those things that ought to be done in the dioceses so that the good of religion is promoted, and so that they can prepare what things ought to be treated in a future provincial Council.

This canon does not deal directly with bishops' conferences. The conferences that existed before the promulgation of the Code

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[78] A. Anton, *Le conferenze episcopali*, 40 48; G. Feliciani, *Le conferenze episcopali*, 135-148.

[79] Cf. P. Huizing, "The Structure of Episcopal Conferences", 165.

[80] A. Anton, *Le conferenze episcopali*, 48.

usually included several provinces or an entire nation. Even after the Code, the conferences developed in a national direction rather than provincial assemblies. Also, at that time the bishops' conferences were held annually and not every five years[81]. However, it can be rightly asserted that the canon indirectly implies the existence of bishops' conferences. For the first time, the *ius commune* applied the principle of obligatory consultative assemblies of ecclesiastical provinces, conceding *via facti* that provincial councils, held every twenty years, were not sufficient to solve the urgent problems of the Church at the local level[82].

The canon also provides for exceptions: "Unless otherwise provided by the Apostolic See for particular places". It explicitly confirmed the norms issued by the popes for various national conferences and provided for the possibility of similar norms for other countries[83]. At that time, in some countries such as Belgium, the province was identical with the nation, and in such cases the provincial assembly was equal to the national one[84]. Thus, the bishops' conferences did indeed find some kind of indirect juridical recognition, but with a precise and important limitation: the Holy See did not intend to recognize the national character of conferences through a norm of canon law[85].

By making plenary councils optional without prescribing a fixed period for their holding, and making provincial councils obligatory only every twenty years, the Code paved the way for more bishops' conferences. After the Code, and especially after World War II, bishops' conferences sprang up all over the world

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[81] Cf. P. Huizing, "The Structure of Episcopal Conferences", 166; H. Müller, "The Relationship between the Episcopal Conference and the Diocesan Bishop", in *The Jurist* 48 (1988) 111; K. Rahner, "Sulle conferenze episcopali", in *Nuovi saggi*, vol. 1, Roma 1968, 608; W. Aymans, *Das synodale Element in der Kirchenverfassung*, 22-23.

[82] Cf. A. Anton, *Le conferenze episcopali,* 66 & 68.

[83] G. Feliciani, *Le conferenze episcopali*, 169; A. Anton, *Le conferenze episcopali,* 66.

[84] A. Anton, *Le conferenze episcopali,* 68.

[85] Cf. G. Feliciani, *Le conferenze episcopali*, 171, 273-306; M. Bonet, "The Episcopal Conference", in *Concilium* (October 1965) 26; A. Anton, *Le conferenze episcopali,* 69-86.

with statutes, permanent secretariats, working committees, and other bodies recognised by the popes[86]. Their purpose always remained the same: mutual consultation on common problems. As Peter Huizing observes, "The essential impetus for the development of national and even international conferences was, and is, not the necessity for national and international canonical legislation, but the necessity for coordinated, unified pastoral activity, communication and instruction, Catholic action, social help and aid, assistance for developing countries, missionary activity, communication with other religions, and governments"[87].

Conclusion

Primacy and synodality are inseparable and closely interwoven like the two sides of a coin. Therefore, synodality cannot be considered alone without touching on primacy. History shows that the development of the universal primacy of the Roman Pontiff with full, complete and supreme jurisdiction and the concentration of power in the Roman Curia led to a significant decline of synodality in the Catholic East and its virtual disappearance in the West. Authentic and meaningful synodality could not be realized without a reinterpretation of papal primacy, a reorganization of the central governing bodies, and a decentralization of power. The Second Vatican Council and the post-conciliar Church attempted to initiate such a process and establish a balance between primacy and synodality, as we will see in the next two chapters.

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[86] Cf. A. Anton, *Le conferenze episcopali*, 69-86; G. Feliciani, *Le conferenze episcopali*, 273-306.

[87] P. Huizing, "The Structure of Episcopal Conferences", 166.

Chapter Five

PRIMACY OF THE POPE AND COLLEGIALITY OF THE BISHOPS ACCORDING TO THE SECOND VATICAN COUNCIL

Introduction

The previous three chapters have dealt with primacy and synodality according to the common tradition of the Church in the first millennium, and the consolidation of Roman primacy in the second millennium with the consequent decline of synodality until the Second Vatican Council. This chapter is a continuation of the previous ones and presents the teaching of the Second Vatican Council on primacy and on the collegiality and synodality of bishops. Since the primacy and personal infallibility of the Pope were defined by the First Vatican Council, the teaching of the Second Vatican Council on these topics can only be understood in comparison with the first. The chapter also assesses how the doctrine of primacy is balanced and equilibrated by Vatican II, restoring the divine sacramental origin of all episcopal powers and the collegiality and synodality of bishops.

1. Universal Primacy of the Pope according to the Second Vatican Council

According to Catholic understanding, the dogmas defined and promulgated by the Roman Pontiff are immutable and unchangeable. However, they can be reinterpreted and read in the light of the entire tradition and the teaching of all councils according to the principle of dogmatic hermeneutics, whereby a distinction must be made between their unchangeable binding content and their changeable historical forms[1]. Based on recent ecumenical dialogues, the Dicastery for Promoting Christian Unity states:

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[1] Cf. W. Kasper, *That They May All Be One: the Call to Unity Today*, London-New York 2004, 141-145; "Ciò che permane e ciò che muta nel ministero

> Among the proposals expressed by the dialogues, the call for a Catholic *'re-reception' or official commentary of Vatican I* seems particularly important. Assuming the hermeneutical rule that the dogmas of Vatican I must be read in the light of Vatican II, especially its teaching on the People of God (*LG*, chapter II) and collegiality (*LG* 22–23), some dialogues reflect that Vatican II did not explicitly interpret Vatican I but, while incorporating its teaching, complemented it (*LG*, chapter III, 18). It remains therefore necessary to present the Catholic teaching on primacy in the light of a *communio* ecclesiology, within the framework of the 'hierarchy of truths' (*UR* 11). It is also essential to re-read Vatican I in light of the whole Tradition, "according to the ancient and constant belief of the universal Church" (*Pastor æternus*, *Introduction*, DH 3052), and against the horizon of a growing ecumenical convergence on the biblical foundation, historical developments, and theological significance of primacy and synodality […][2].

In fact, the Second Vatican Council itself showed that these principles of hermeneutics also apply to the dogmas of primacy and infallibility promulgated by Pope Pius IX. The third chapter of the Dogmatic Constitution on the Church (*Lumen gentium*) is dedicated to the "hierarchical constitution of the Church and in particular the episcopate", and it is clear from the title alone that the prime focus of the chapter is not on primacy but on the episcopate. However, the doctrine of primacy as defined in the First Vatican Council is essentially reproduced in *Lumen gentium*, albeit not in an organic manner. However, the teaching of the Second Vatican Council on the primacy of the Pope in *Lumen gentium* is supplemented by the teaching in the Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*. The power of the Pope, defined as universal and immediate in Vatican I is reaffirmed in Vatican II:

> This Sacred Council, following closely in the footsteps of the First Vatican Council, with that Council teaches and declares that Jesus Christ, the eternal Shepherd, established His holy Church […]. And in order that the episcopate itself might be one and undivided, He placed Blessed Peter over the other apostles, and instituted in him a

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petrino", 43-58; cf. also G. Alberigo, "Per un papato rinnovato a servizio della Chiesa", 18-40.

[2] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", in *The Bishop of Rome: Primacy and Synodality*, 124 (no. 14).

> permanent and visible source and foundation of unity of faith and communion[3]. And all this teaching about the institution, the perpetuity, the meaning and reason for the sacred primacy of the Roman Pontiff and of his infallible magisterium, this Sacred Council again proposes to be firmly believed by all the faithful […][4].

The teaching of the First Vatican Council on the purpose of primacy, its divine origin and its significance is reproduced and confirmed without substantial changes. After confirming the dogma of primacy, the Council, when speaking about the college of bishops and its relationship to the Roman Pontiff, reaffirms the latter's universal primacy of jurisdiction:

> But the college or body of bishops has no authority unless it is understood together with the Roman Pontiff, the successor of Peter as its head. The pope's power of primacy over all, both pastors and faithful, remains whole and intact. In virtue of his office, that is as Vicar of Christ and pastor of the whole Church, the Roman Pontiff has full, supreme and universal power over the Church. And he is always free to exercise this power […][5].

According to *Lumen gentium*, the Pope has full, supreme and universal power. The qualifications "ordinary and immediate" are not found, but the expression "supreme" is added. However, it is easy to understand that a supreme power is also ordinary and immediate because it does not require the mediation of other powers for its free exercise. However, the teaching of the Second Vatican Council on the primacy of the Pope is completed by the Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, which adds the qualifications "immediate and ordinary":

> In this Church of Christ the Roman Pontiff, as the successor of Peter, to whom Christ entrusted the feeding of His sheep and lambs, enjoys supreme, full, immediate, and universal authority over the care of souls by divine institution. Therefore, as pastor of all the faithful, he is sent to provide for the common good of the universal Church

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[3] Vatican I, Session 4 of 18 July 1870, constitution *Pastor Aeternus*, chapter 4, in *Decrees of the Ecumenical Councils,* vol. 2, 811-812; *Conciliorum oecumenicorum decreta,* 811-812.

[4] Vatican II, *Lumen gentium*, *Dogmatic Constitution on the Church*, no. 18.

[5] Vatican II, *Lumen gentium*, no. 22.

> and for the good of the individual churches. Hence, he holds a primacy of ordinary power over all the churches[6].

According to *Christus Dominus* the Pope "enjoys supreme, full, immediate, and universal authority" and "holds a primacy of ordinary power over all the churches". It can therefore be said that there is no essential difference between Vatican I and Vatican II concerning papal authority.

1.1. The Supreme and Full Power of the Pope and the Possibility of Real Episcopal Power

In the constitution *Pastor Aeternus* Vatican I qualified the Pope's power as full and supreme, which was reiterated by Vatican II. The papal power of jurisdiction is full, supreme and absolute in the sense that it is not bound by any limitation of positive law, but in the ecclesiastical sphere, it does not exclude other powers with their own rights alongside or below the central monarchical power[7]. Vatican I itself affirmed: "This power of the supreme Pontiff by no means detracts from that ordinary and immediate power of episcopal jurisdiction, by which bishops, who have succeeded to the place of the apostles by appointment of the Holy Spirit, tend and govern individually the particular flocks which have been assigned to them. On the contrary, this power of theirs is asserted, supported and defended by the supreme and universal pastor […]"[8].

During the discussions on primacy at the Second Vatican Council Pope Paul VI suggested that he would have liked to insert an old formulation into the hierarchical constitution of the Church, according to which the Bishop of Rome is solely responsible to the Lord (God) (*uni Domino devinctus*). The Theological Commission of the Council did not agree to include this phrase,

> Because it is an oversimplified formula. For the Roman Pontiff is bound to keep within the Revelation itself, the basic structure of the

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[6] Vatican II, *Christus Dominus*, *Decree on the Pastoral Office of Bishops in the Church*, no. 2.

[7] Cf. K. Schatz, *Papal Primacy from Its Origins to the Present*, 163.

[8] *Decrees of the Ecumenical Councils*, vol. 2, 814; *Conciliorum oecumenicorum decreta,* 814.

> Church, the sacraments, the definitions of the first councils, etc. We cannot list them all. Great care is needed with phrases like 'uniquely' and 'alone'. They could give rise to very many difficulties. Such a phrase would in any case need to be qualified by long and complicated explanation. The Commission deems it therefore better to avoid the phrase. There is also a psychological reason: we must avoid pacifying some people in such a way as to arouse new anxieties, especially over our relations with the East[9].

Indeed, the Pope is also subject to the laws of nature, all positive divine laws, including revelation, the dogmatic definitions and *de iure divino* structures of the Church, as well as the constitutive canonical principles that sustain the Church as a human institution[10].

The supreme power of the Pope does not mean absolute and complete supremacy over the entire Church, like that of an absolute monarch who eliminates or subjugates all other powers. As Cardinal Walter Kasper points out:

> The understanding of primacy in the sense of sovereignty does not mean – even according to the First Vatican Council – that the pope's power is unlimited. It is limited in several ways: by revelation itself and by binding tradition, by the sacramental structure and the episcopal constitution of the Church, as well as by human rights given by God. Therefore the problem is not the actual dogma of the Frist Vatican Council but its maximizing interpretation both by its ultra-montanist advocates and by its critics[11].

On 31 October 1998 the Congregation for the Doctrine of the Faith confirmed the opinion of theologians concerning limits of the of the supreme power of the Roman Pontiff as follows:

> The Roman Pontiff - like all the faithful - is subject to the Word of God, to the Catholic faith, and is the guarantor of the Church's obedience; in this sense he is *servus servorum Dei*. He does not make

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[9] G. Alberigo e F. Magistretti (edd.), *Constitutionis Lumen Gentium synopsis historica*, Bologna 1975, 432 and 456; English translation in J.-M. R. Tillard, *The Bishop of Rome*, 132.

[10] Cf. J. E. Linnan, "Subsidiarity, Collegiality, Catholic Diversity and Their Relevance to Apostolic Visitation", in *The Jurist* 49 (1989) 408.

[11] W. Kasper, *That They May All Be One: the Call to Unity Today,* 45-146; Here Kasper refers to H. J. Pottmeyer, *Die Rolle des Papstums im dritten Jahrtausend* (*Quaestiones disputatae* 179), Freiburg 1999, 66.

> arbitrary decisions, but is spokesman for the will of the Lord, who speaks to man in the Scriptures lived and interpreted by Tradition; in other words, the *episcope* of the primacy has limits set by divine law and by the Church's divine, inviolable constitution found in Revelation […][12].

Many of the powers attributed to the Petrine ministry in the second millennium do not necessarily belong to primacy as such. The essential and binding meaning of the primacy of jurisdiction is that the Pope is free to act according to the specific and changing needs of the Church[13]. Furthermore, primacy is to be understood according to the biblical testimony concerning the basis of the Petrine ministry, its theological meaning and its appropriate exercise according to the Gospel. Understood in the Gospel sense, the Petrine ministry cannot be understood as power, but only as service; it is the Petrine ministry or service of him who is the servant of servants (*servus servorum)*[14].

1.2. Significance of Ordinary and Immediate Power of the Pope and Bishops in Each Diocese

In the second millennium, only the Pope was considered the vicar of Christ, the bishops were only vicars of the Pope, but the Second Vatican Council proclaims that the bishops are also vicars and ambassadors of Christ. By applying to bishops the adjectives used in Vatican I to describe the power of the Pope, Vatican II declares that bishops exercise their power in the name of Christ (not in the name of the Pope) and that their power is "proper, ordinary and immediate". The text follows:

> Bishops, as vicars and ambassadors of Christ, govern the particular churches entrusted to them by their counsel, exhortations, example, and even by their authority and sacred power, which indeed they use only for the edification of their flock in truth and holiness, remembering that he who is greater should become as the lesser and

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[12] Congregation for the Doctrine of the Faith, *The Primacy of the Successor of Peter in the Mystery of the Church,* in *L'Osservatore Romano* (weekly edition in English), 18 November 1998, 5.

[13] W. Kasper, *That They May All Be One*: *the Call to Unity Today,* 146.

[14] W. Kasper, *That They May All Be One*: *the Call to Unity Today*,147-148.

> he who is the chief become as the servant (cf. *Lk* 22, 26-27). This power, which they personally exercise in Christ's name, is proper, ordinary and immediate, although its exercise is ultimately regulated by the supreme authority of the Church, and can be circumscribed by certain limits, for the advantage of the Church or of the faithful. In virtue of this power, bishops have the sacred right and the duty before the Lord to make laws for their subjects, to pass judgment on them and to moderate everything pertaining to the ordering of worship and the apostolate. The pastoral office or the habitual and daily care of their sheep is entrusted to them completely; nor are they to be regarded as vicars of the Roman Pontiffs, for they exercise an authority that is proper to them, and are quite correctly called "prelates", heads of the people whom they govern. Their power, therefore, is not destroyed by the supreme and universal power, but on the contrary it is affirmed, strengthened and vindicated by it, since the Holy Spirit unfailingly preserves the form of government established by Christ the Lord in His Church[15].

This can be regarded as the most solemn statement about the power of diocesan bishops in their dioceses. In contrast to the situation in the second millennium, it explicitly affirms that "the pastoral office or the habitual and daily care of their sheep is entrusted to them (bishops) completely; nor are they to be regarded as vicars of the Roman Pontiffs".

According to the teaching of the First Vatican Council, which was taken up by the Second Vatican Council, it can be stated that the Roman Pontiff has ordinary and immediate power in every diocese. As Vatican II also states, every bishop has proper, ordinary and immediate power in his diocese. This could give the impression that there are two bishops in each diocese: the Bishop of Rome for all dioceses and a bishop appointed by him for each diocese. An attempt is therefore made to clarify the nature of the ordinary and immediate power of the Pope and that of a bishop in his diocese.

The significance of the ordinary and immediate power of the Pope and that of a bishop in each diocese was hotly debated in various sessions of the First Vatican Council prior to the

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[15] Vatican II, *Lumen gentium*, no. 27. Three footnotes in this original text are omitted.

promulgation of the dogma on papal primacy[16]. Especially those who belonged to the minority that did not favour the absolute universal supremacy of the Pope pointed out that if it was not clearly shown how the two episcopal powers, both ordinary and immediate, concerned the same part of the flock, the danger would remain that the balance would be disturbed, so that the local bishop would appear to be only a shadow of the Bishop of Rome. It was stated that, according to the formula, the Pope would be the bishop of all the dioceses of the Catholic Church, while the others would be bishops in name, but in reality would be nothing more than vicars or delegates of the Pope[17].

Before the final vote on the primacy of the Pope in 1870, great efforts were made to explain to the Fathers how the ordinary power of the bishop in his diocese was related to the ordinary power of the Bishop of Rome in the same diocese. It was made clear that ordinary power means something different in two cases. When applied to papal authority, it means that it is conferred with the office itself and not delegated. Applied to the local bishop, it means not only in exceptional cases, but a power exercised day by day over the needs and cases that usually arise in a diocese[18]. The power of the Pope over the universal Church is ordinary in the sense that it is bound by divine right to the primacy itself and, when properly exercised, requires no delegation[19]. The ordinary power of the Pope does not signify that he would "habitually without necessity or evident usefulness to the Church and simply at his own pleasure perform in every diocese, by himself or his collaborators, the episcopal functions in the way that the Ordinary of the diocese performs them"[20]. The power of the Pope to intervene in any diocese when necessary, especially to protect the unity of the faith and to maintain

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[16] For details concerning the debates: Mansi, vol. 52; J.-M. R. Tillard, *L'évêque de Rome*, 161-166; *The Bishop of Rome*, 128-132.

[17] J.-M. R. Tillard, *L'évêque de Rome,* 166-167; *The Bishop of Rome*, 132-133.

[18] J.-M. R. Tillard, *L'évêque de Rome*, 168; *The Bishop of Rome,* 133.

[19] Discourse of Msgr. Augustine David, Bishop of Saint-Brieuc (1862-1882), on 18 July 1870, in Mansi 52, 593-594.

[20] Discourse of Msgr. Augustine David, in Mansi 52, 594.

the Catholic communion is an ordinary power in the sense that he possesses it by virtue of his office and it is not a delegated power[21].

Vatican I declared that the power of the Roman Pontiff is also immediate over all churches, pastors and faithful. *Lumen gentium* avoided the adjective "immediate", but *Christus Dominus* reproduces the formula of Vatican I. The significance of the adjective "immediate" in connection with the power of the Roman Pontiff was also explained in the discussions concerning the definition of primacy in Vatican I[22]. It was clarified that the power is called immediate, because it can be exercised without an intermediary. The Pope himself can perform episcopal acts in any diocese, without the mediation of the local bishop, if this is necessary for the edification of the Church and not for its destruction[23].

The power of the Pope does not operate in the same way in the diocese of Rome itself and in other dioceses. After a careful examination of all the discussions about the ordinary and immediate power of the Roman Pontiff, before the promulgation of the dogma on primacy in the First Vatican Council, Jean-Marie Roger Tillard comes to the beautiful conclusion:

> His functions within the *urbs*, the city of Rome – his own diocese without which he would not be a bishop, the local church endowed with the *potentior principalitas* – must be clearly distinguished from his true function in the *orbis*, the universal Church arising from the communion of all the local churches. In the first case, he has to exercise that *potestas ordinaria et immediata* which belongs to every bishop in his constant and customary dealings with the problems and needs of his local Church. In other case, the Spirit of the Lord requires him to be the sentinel, the 'watchman', the memory of the apostolic faith among his brother bishops especially, to keep them in

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[21] Final Report of Federico Maria Zinelli: in Mansi 52, 1105. Zinelli was Bishop of Treviso from 1861 until his death on 24 November 1879. He was a member of the *De Fide* Commission at the Frist Vatican Council.

[22] For different opinions: J.-M. R. Tillard, *L'évêque de Rome,* 169-171; *The Bishop of Rome*, 134-136.

[23] Final Report of Federico Maria Zinelli: in Mansi 52, 1105.

> faithfulness to their mission and above all to keep them unceasingly open to the universal aspects of salvation and of the Church of God[24].

In the context of the controversy between Otto von Bismark, Chancellor of the German Empire (from 1862 to 1890) and the German bishops in 1872 over the supreme, ordinary and immediate power of the Pope in the universal Church, as defined in Vatican I, Pope Pius IX himself accepted the clarification of the German bishops, who maintained that "the Pope is Bishop of Rome but not bishop of another diocese or town" and the opinion that "the Pope's position in relation to the episcopate has been changed by the Vatican Council is completely without foundation"[25]. Even after the First Vatican Council, nothing changed, because even before the Council, the Bishop of Rome, by virtue of his office as successor of St Peter, had the necessary power to intervene in every diocese of the Catholic Church without the mediation of anyone in order to protect the authentic faith and the communion of the local Churches.

The First Vatican Council itself expressly declared that the universal jurisdiction of the Pope and his ordinary and immediate power in each diocese neither weakens nor replaces the power of the bishops in each diocese:

> This power of the supreme pontiff by no means detracts from that ordinary and immediate power of episcopal jurisdiction, by which bishops, who have succeeded to the place of the apostles by appointment of the Holy Spirit, tend and govern individually the particular flocks which have been assigned to them. On the contrary, this power of theirs is asserted, supported and defended by the supreme and universal pastor; for St Gregory the Great says: "My honour is the honour of the whole church. My honour is the steadfast

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[24] J.-M. R. Tillard, *L'évêque de Rome*, 173-174; *The Bishop of Rome*, 138.

[25] For details and documentation: O. Rousseau, "La vraie valeur de l'épiscopat dans l'Eglise, d'après d'importants documents de 1875, in *Irénikon* 29 (1956) 121-142, 143-150; Y. Congar-B. D. Dupuy (edd.), *L'Episcopat et l'Eglise universelle* (*Unam Sanctam* 39), Paris 1962, 709-736; J.-M. R. Tillard, *L'évêque de Rome*; 174-175; *The Bishop of Rome*, 138-141; K. Rahner - J. Ratzinger, *Episkopat und Primat*, Freiburg 1961, 39-41; English translation, *The Episcopate and the Primacy*, New York 1962, 40-41 [This book contains three parts, of which the first and third are written by K. Rahner and the second by J. Ratzinger].

strength of my brethren. Then do I receive true honour, when it is denied to none of those to whom honour is due"[26].

After presenting the Catholic doctrine of papal primacy, based on the aforementioned affirmation of Vatican I on the nature of episcopal powers, Joseph Ratzinger affirms:

> Contrasted with certain truths about the pope stand a series of truths, equally certain, about the nature of the episcopal office. If on the one hand the papal see is called the apostolic see and his primacy is called apostolic, it is also true that the bishops "*in Apostolorum locum successerunt*". While the pope is accorded ordinary episcopal power in the whole Church, so that one might have the impression that the bishops were only executive organs of this power, it is declared on the other hand that they are "instituted by the Holy Ghost" and that they are of "divine right". That is, they are not of papal right; the pope cannot suppress them since they are as much part and parcel of the divinely appointed structure of the Church as he[27].

In explaining the significance of ordinary and immediate power of the Pope as contained in the Constitution *Pastor aeternus* of Vatican I, Cardinal Yeves Congar affirms that such power is granted to serve its purpose: to maintain communion among the Churches and all in the unity of the apostolic faith. He then states:

> Peter's successor is neither a universal bishop nor a 'super bishop'. He is more than the first of the bishops in the sense of 'first among equals'. He has the office and therefore the power and charism as guardian of peace, as promoter and harmonizer of communion in the apostolic faith. Indeed, it is through this communion in faith that plurality is brought back to unity. The church was founded on Peter's faith in Christ the Son of the living God[28].

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[26] Ep. ad Eulog. Alexandrin. (Letter to Eulogius of Alexandria), Vlll 29 (30), *Monumenta Germaniae Historica*, Ep. 2, 31 28-30, *PL* 77, 933 (original footnote). *Decrees of the Ecumenical Councils*, vol. 2, 814; *Conciliorum oecumenicorum decreta,* 814.

[27] K. Rahner - J. Ratzinger, *Episkopat und Primat*, 39; *The Episcopate and the Primacy*, 40.

[28] Y. Congar, "Le pape come patriarche d'occident", 387.

In short, the ordinary and immediate power of the Pope, as expounded or clarified at the Frist Vatican Council, neither eliminated nor weakened the power of the bishops in each diocese but strengthened and protected it. However, contrary to what had been explained to the Council Fathers, the ultramontane advocates of universal papal supremacism and the Roman authorities over time misinterpreted the teachings of the First Vatican Council and reduced the bishops to the status of delegates and officials of the Pope until the Second Vatican Council, which restored the true meaning of the ordinary and immediate power of the Pope and the bishops.

2. Doctrine of Vatican II on the Infallibility of the Pope

As in the case of the primacy, the Second Vatican Council also reiterated the dogma of infallibility "in defining doctrine of faith or morals" without any substantial change, but inserted the dogma in *Lumen gentium*, number 25, which is dedicated to the teaching office of all bishops, who are "authentic teachers, that is, teachers endowed with the authority of Christ". After having dealt with the teaching office of individual bishops and the ordinary magisterium of the Roman Pontiff, the Council speaks of the magisterium and infallibility of the entire college of bishops, whether "dispersed through the world, but still maintaining the bond of communion among themselves and with the successor of Peter" or "gathered together in an ecumenical council"[29]. The Council then reiterated the dogma of Vatican I on the personal infallibility of the Pope:

> […] And this infallibility with which the Divine Redeemer willed His Church to be endowed in defining doctrine of faith and morals, extends as far as the deposit of Revelation extends, which must be religiously guarded and faithfully expounded. And this is the infallibility which the Roman Pontiff, the head of the college of bishops, enjoys in virtue of his office, when, as the supreme shepherd and teacher of all the faithful, who confirms his brethren in their faith

[29] Vatican II, *Lumen gentium*, no. 25; for the nature and significance of the infallible authority of the episcopal college: K. Rahner, "The Hierarchical Structure of the Church, with Special Reference to Episcopate", in H. Vorgrimler (ed.), *Commentary on the Documents of Vatican II*, vol. 1, New York 1967, 210-211.

> (*Lk* 22: 32) by a definitive act he proclaims a doctrine of faith or morals[30]. And therefore his definitions, of themselves, and not from the consent of the Church, are justly styled irreformable, since they are pronounced with the assistance of the Holy Spirit, promised to him in blessed Peter, and therefore they need no approval of others, nor do they allow an appeal to any other judgment[31].

Surprisingly even the anti-Gallican formulation: "of themselves, and not from the consent of the Church", which was inserted by Vatican I in the historical context of that time, was also retained, perhaps because it was part of an irreformable dogma. However, already at the First Vatican Council, Bishop Vincent Gasser's report on the definition of papal infallibility stated that the special assistance granted to the Pope in this matter does not set him apart from the Church and does not exclude consultation and collaboration[32]. On the basis of the aforementioned report, the International Theological Commission affirms that even the First Vatican Council did not intend to exclude the ecclesial dimension of infallibility:

> In a phrase intended to exclude Gallicanism, *Pastor Aeternus* asserted that *ex cathedra* doctrinal definitions of the pope concerning faith and morals are irreformable 'of themselves and not from the consent of the Church [*ex sese non autem ex consensu ecclesiae*]', but that does not make the *consensus Ecclesiae* superfluous. What it excludes is the theory that such a definition requires this consent, antecedent or consequent, as a condition for its authoritative status[33].

In the light of *Lumen gentium* the formulation can only mean that definitions ex cathedra do not derive their validity from a subsequent juridical verification of their correctness by a higher

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[30] Vatican I, Pastor a*eternus* (dogmatic constitution), no. 4 (footnote as in the original).

[31] Vatican II, *Lumen gentium*, no. 25.

[32] The Report of Bishop Vincenz Gasser on 11 July 1870, in Mansi 52, 1213-1214; the complete Report can be found in Mansi 52, 1204-1228. Vinzenz Gasser was Bishop of Bressanone-Brixen in Italy from 6 April 1879 until his death on 6 April 1879.

[33] International Theological Commission, *Sensus Fidei in the Life of the Church*, Vatican City 2014, no. 40.

ecclesiastical authority distinct from the Bishop of Rome[34]. In fact, the personal infallibility of the Roman Pontiff "in defining doctrine of faith or morals" is balanced by the addition of the following sentence:

> For the Roman Pontiff is not pronouncing judgment as a private person, but as the supreme teacher of the universal Church, in whom the charism of infallibility of the Church itself is individually present, he is expounding or defending a doctrine of Catholic faith[35].

On the one hand, the Council upheld the dogma of the First Vatican Council; on the other, it emphasized the ecclesial dimension of infallibility by stating that the charism of infallibility belongs to the Church as a whole and that the Pope exercises it individually "as the supreme teacher of the universal Church". Aa Karl Rahner affirms,

> No juridical consensus of the Church is required to make papal definitions valid as doctrinal law. Nonetheless, the Pope's act stems from the revealed faith of the infallible Church, a revelation which the Pope will in fact always follow, even without juridical sanctions, by virtue of the assistance of the Holy Spirit, which cannot be channeled merely by institutions. Hence too the ex-cathedra definitions of the Pope can never lack the assent of the believing Church. It is clear that this structured unity of faith inspired by the Spirit in the whole Church (in teaching and hearing) can be considered as a motive and criterium for the faith of Catholics, and hence also as a criterium for the fact that the Pope renders correctly the faith of the whole Church when he gives a definition"[36].

The collegial infallibility of bishops and the individual infallibility of the Pope are to be understood in the light of the ecclesial infallibility of the entire people of God, which was already established in the second chapter of *Lumen gentium* on "the People of God". In the context of the prophetic office the Council affirms the infallibility of the people of God as follows:

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[34] J.-M. R. Tillard, *L'évêque de Rome,* 166-167; *The Bishop of Rome*, 176.

[35] Vatican II, *Lumen gentium*, no. 25.

[36] K. Rahner, "The Hierarchical Structure of the Church, with Special Reference to Episcopate", 213.

> […] The universal body of the faithful who have received the anointing of the Holy One (see 1 *Jn* 2, 20 and 27), cannot be mistaken in belief. It displays this particular quality through a supernatural sense of the faith (*supernaturali sensu fidei*) in the whole people when "from the bishops to the last of the faithful laity", it expresses the consent of all in matters of faith and morals. Through this sense of faith (*sensu fidei*) which is aroused and sustained by the Spirit of truth, the people of God, under the guidance of the sacred magisterium to which it is faithfully obedient, receives no longer the words of human beings but truly the word of God (see 1 *Th* 2, 13); it adheres indefectibly to "the faith which was once for all delivered to the saints" (*Ju* 3); it penetrates more deeply into that and applies it more fully to life[37].

As Aloysius Grillmeier states, "This article, in fact, like the whole of Chapter II, is concerned with basing the infallibility of the Church, like that of the magisterium, on the people of God as a whole"[38]. He continues:

> In the mind of the faithful, as in that of the magisterium, the gift of infallibility had been too one-sidedly concentrated on the office, and even on a papal primacy which was considered in isolation from the episcopate as a whole. […] The people of Christ as a whole, including the holders of office, is infallible in *credendo*, which, however, is not to be taken in a passive sense. It is something active, by which the faith is vigorously preserved and attested, penetrated ever more profoundly and made the formative element in life. The holders of office are infallible, not merely in *credendo* along with the whole people of God, but also in *docendo*, by virtue of the charism given to them, which embraces their teaching. The instinct of faith in the people as a whole and the infallible magisterium of the Church stand in the same relation to each other as the common priesthood of all the faithful to the consecrated priesthood, into which is absorbed the priesthood of all the baptized. The participation of all believers in the preservation of "the faith" and the institution of the offices with their special charism of infallibility are derived from the free decree of God's grace. It was God's will that his truth and his salvation should abide inviolate and efficacious in the whole people of the new

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[37] Vatican II, *Lumen gentium*, no. 12.

[38] A. Grillmeier, "The People of God", in H. Vorgrimler (ed.), *Commentary on the Documents of Vatican II*, vol. 1, New York 1967, 164.

> covenant – for the benefit of mankind – and that so the fidelity of this people itself to the covenant should be maintained. Hence this infallibility is primarily a work of preserving and maintaining the faith in the service of mankind – because it is concerned with the reality of salvation and revelation which has been given and perfected historically in Christ. In regard to Christ, we can only be recipients, whose duty it is to guard loyally the treasure entrusted to them. At the same time all the work of preserving and maintaining the faith is concerned with a dynamic reality, filled by the Spirit of God, and so rich that the Church cannot but be preoccupied with its mystery throughout the whole of its history. All levels of the people of God have an active share in his work and reality[39].

Also in *Lumen gentium*, chapter four dedicated to "The Laity", the Council declares that Christ, the great Prophet, continually fulfils His prophetic office, "not only through the hierarchy who teach in his name and with his authority, but also through the laity whom he made his witnesses and to whom he gave understanding of the faith (*sensu fidei*) and an attractiveness in speech (cf. *Acts* 2:17-18; *Rev.* 19:10) so that the power of the Gospel might shine forth in their daily social and family life"[40]. About the significance of *sensus fidei* and the infallibility of the people of God, Pope Francis confirms:

> In all the baptised, from first to last, the sanctifying power of the Spirit is at work, impelling us to evangelisation. The People of God is holy thanks to this anointing, which makes it infallible *in credendo.* This means that it does not err in faith, even when it cannot find words to explain that faith. The Spirit guides it in truth and leads it to salvation. As part of His mysterious love for humanity, God furnishes the totality of the faithful with an *instinct of faith* - *sensus fidei* - which helps them to discern what is truly of God. The presence of the Spirit gives Christians a certain connaturality with divine realities, and a

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[39] A. Grillmeier, "The People of God", 164-165.

[40] Vatican II, *Lumen gentium*, no. 35. For the nature, significance and dogmatic value of *sensus fidei:* International Theological Commission, *Sensus Fidei in the Life of the Church*, Vatican City 2014. For an evaluation of this document: J. Kallarangatt, *Windows to Heaven: Contours of an Ecclesial and Oriental Way of Life*, Kottayam 2018, 447-469.

wisdom which enables them to grasp those realities intuitively, even when they lack the wherewithal to give them precise expression[41].

Although the Pope is the successor of St Peter and supreme head of the Catholic Church, he is also a member of the Church by baptism and a bishop among other bishops by episcopal consecration, and therefore he is always in communion with the entire episcopate and the people of God, the fundamental repository of the faith and the authentic tradition of the Church. The gift of infallibility in matters of faith and morals, which the Holy Spirit has conferred on the whole Church or the whole people of God, is exercised collectively by the college of bishops, especially in an ecumenical council, or individually by the Pope as head of the whole Catholic Church and the college of bishops, without being dependent on any other power, since by divine right he is the successor of St Peter.

3. The Divine Origin of Episcopate and the Sacramentality of All Episcopal Powers according to Vatican II

Since the most fundamental question, which affects all other aspects of episcopal collegiality and synodality, is the divine origin of all episcopal authority, we will first endeavour to establish this important fact and then move on to the other aspects of episcopal collegiality. Since the First Vatican Council was prematurely interrupted due to the outbreak of war, it did not deal with the doctrine of episcopacy. The dogma of primacy is in fact balanced by the teaching of the Second Vatican Council on the sacramentality and collegiality of the episcopate. Chapter III of *Lumen gentium*, entitled "The Hierarchical Constitution of the Church and in Particular the Episcopate", presents the whole hierarchical structure of the Church, but focuses on the episcopate. Indeed, one of the most important achievements of the Second Vatican Council is the restoration of the sacramentality of the episcopate and all episcopal powers.

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[41] Francis, *Evangelii Gaudium* (apostolic exhortation), Vatican City 2013, no. 119; original text in *AAS* 105 (2013) 1069-1070; cf. also *Episcopalis Communio* (apostolic constitution on the Synod of Bishops) Vatican City 2018, no. 5.

According to the undivided common tradition of the Church, a bishop was consecrated for a particular Church and by the consecration itself received all the powers necessary for the governance of that Church. No distinction was made between the power of order and the power of jurisdiction[42]. In the second millennium a clear distinction or separation was made between the power of order, namely the office of sanctifying which derived from episcopal ordination and the power of jurisdiction consisting of the offices of teaching and governing, which were conferred by the Roman Pontiff on the ordained[43]. The origin of episcopal power is a very fundamental point regarding synodality and collegiality, because if the power of governance is conferred on the ordained by the Roman Pontiff, then bishops become his delegates or officials, who execute his orders in the local Church, as happened in the second millennium. First and foremost, then, the Council teaches the divine origin of the episcopate:

> Just as the office which the Lord confided to Peter alone as the first of the apostles, destined to be transmitted to his successors, is a permanent one, so also endures the office which apostles received of shepherding the Church, a charge destined to be exercised without interruption by the sacred order of bishops. The sacred synod teaches

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[42] Cf. Y. Congar, *Ministères et communion ecclésiale*, 83-90; W. Bertrams, *Il potere pastorale del papa e del collegio dei vescovi: premesse e conclusioni teologico-giuridiche*, Roma 1967, 8; *De relatione inter episcopatum et primatum,* 56; "Il soggetto del potere supremo nella Chiesa", 568; "Episcopato e primato nella vita della Chiesa", 221; "La collegialità episcopale", 440; cf. G. Alberigo, *Lo svilupo della dottrina sui poteri nella Chiesa: momenti essenziali tra il XVI e il XIX secolo,* Rome 1964, 11-101 & 179-454.

[43] Cf. J. Ratzinger, *Il nuovo popolo di Dio*, 191-193; Y. Congar, *Ministères et communion ecclesiale*, 95-97; "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 240-248; "Ordre et juridiction dans l'Eglise", 203-237; "Notes sur le destin de l'idée de collégialité épiscopale en occident au moyen age (VII°-XVI° sieécles), in *La Collégialité épiscopale* (*Unam Sanctam* 52), Paris 1965, 114-128; W. Bertrams, "De quaestione circa originem potestatis iurisdictionis Episcoporum 465-469; *De relatione inter episcopatum et primatum*, 54-55; "La collegialità episcopale", 440; H. Legrand, "La réalisation de l'Eglise en un lieu", in B. Lauret & F. Refoulé (edd.), *Initiation à la pratique de la théologie,* vol. 3, Paris 1986, 306; W. De Vries, "Grenzen des päpstlichen Primats", 487-494.

> that the bishops have by divine institution taken the place of the apostles as pastors of the Church[44].

The Council teaches that like the primacy of the Pope, the office of bishop is also a permanent one and is of divine origin; by divine institution they are successors of the apostles. The office of bishop is therefore not an element of purely human and variable ecclesiastical law in the sense that the post-apostolic Church could also have given itself a non-episcopal constitution. The episcopal constitution only came into force as part of the revelation which took place in apostolic times[45]. Therefore, the full office of bishops in its essence, in its collegial form and in its union with the Pope is in any case divinely instituted[46].

Having sanctioned the divine origin of the episcopate, the Council also confirmed the divine, sacramental origin of all episcopal powers, thus re-establishing the common tradition of the first millennium on the full sacramentality of the episcopate, which is considered its most important achievement in this field. On the origin of all episcopal power the Council states:

> The holy synod teaches that the fullness of the sacrament of Order is conferred by episcopal consecration; and this both by the liturgical custom of the Church and the voice of the holy fathers, is undoubtedly called the supreme priesthood, the highest point of the sacred ministry. Episcopal consecration, along with the office of sanctifying, also confers the offices of teaching and governing; these however by their very nature can only be exercised in hierarchical communion with the head of the college and its members. For it is clear from tradition – a tradition expressed especially in the liturgical rites and in the usage of the Church both Eastern and Western – that through the imposition of hands and the words of consecration the grace of the Holy Spirit is so conferred, and the sacred character so imprinted,

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[44] Vatican II, *Lumen gentium*, no. 20.

[45] K. Rahner, "The Hierarchical Structure of the Church, with Special Reference to Episcopate", 191.

[46] K. Rahner, "The Hierarchical Structure of the Church with Special Reference to Episcopate", 192; K. Rahner - J. Ratzinger, *Episkopat und Primat*, 16-20; *The Episcopate and the Primacy*, 17-19.

> that bishops in an eminent and visible way take on the functions of Christ the teacher, shepherd and pontiff and act in his person[47].

In other places, too, Vatican II repeatedly refers to the divine, sacramental origin of all episcopal power. The bishops "attend to the whole flock in which the Holy Spirit placed them to shepherd the Church of God" and as successors of the apostles, "they receive from the Lord", "the mission to teach all nations and to preach the Gospel to every creature"[48]. "The bishops themselves, however, having been appointed by the Holy Spirit, are successors of the Apostles as pastors of souls"[49]. The bishops are thus appointed by the Holy Spirit through episcopal consecration and receive their mission and ministry from the Lord himself. The sacramental origin of episcopal authority is also indicated in the passages of *Lumen gentium* and *Christus Dominus*, which affirm the sacramental origin of the episcopal college, as we see below.

The dogmatic constitution on the Church was promulgated by Pope Paul VI on 21 November 1964. However, five days before its promulgation, precisely on 16 November 1964, a *Preliminary Note of Explanation* formulated by the Theological Commission and signed by the Secretary General of the Council, Cardinal Pericle Felici, was presented to the Council Fathers during the 123rd general assembly, stating that it came "from higher-authority" and that the

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[47] *Lumen gentium,* no. 21; Because of the conflicting views in the Council on questions concerning the episcopate, an effort was made to elicit the true judgment of the Fathers on 29 November 1963 (*Acta synodalia* II, 3: 573-575). To the question "Utrum placeat Patribus ita apparari schema ut dicatur Episcopalem consecrationem summum gradum sacramenti Ordinis constituere", 2123 fathers gave *placet*; the number of non placet was only 34 (*Acta synodalia* II, 3: 574 & 670). Similarly, the question "Utrum placeat Patribus ita apparari schema ut dicatur Corpus seu Collegium Episcoporum in munere evangelizandi, sanctificandi et pascendi succedere Collegio Apostolorum [...]", received 1808 placet, 336 non placet, and 4 placet iuxta modum (*Acta synodalia* II: 3, 574 & 670). Because of the paramount importance of Caput III of *De Ecclesia*, the Fathers decided by a vote to divide this Caput into 39 themes and vote on each theme, with a single final voting for the entire Chapter (*Acta synodalia* III: 1, 395-396 & 458). Accordingly, the voting was conducted in September 1964, in which the Fathers finally reestablished the sacramentality of the whole episcopal power. Out of the 2247 Fathers 1917 gave *placet*, 328 non *placet* and two votes were null (*Acta synodalia* III: 8, 53).

[48] Vatican II, *Lumen gentium*, nos. 20 and 24, respectively.

[49] Vatican II, *Christus Dominus*, no. 2.

doctrine set forth in chapter III on the hierarchical constitution of the Church was to be explained and understood according to the meaning and intent of this explanatory note[50]. Strictly speaking this *Preliminary Note of Explanation*, which was not voted by the Fathers of the Council, remains something of the said Commission and not an indication of the intention of the Council Fathers. In fact, "the limiting centralist interpretation of collegiality as it emerges in the *nota* goes against the overwhelming majority and must be looked at in these terms"[51]. Regarding the sacramental origin of all episcopal power the *Preliminary Note* states:

> A person becomes a member of the College by virtue of Episcopal consecration and by hierarchical communion with the head of the College and with its members […].
>
> In his consecration a person is given an ontological participation in the sacred functions [*munera*]; this is absolutely clear from Tradition, liturgical tradition included. The word "functions [*munera*]" is used deliberately instead of the word "powers [*potestates*]", because the latter word could be understood as a power, fully ready to act. But for this power to be fully ready to act, there must be a further canonical or juridical determination through the hierarchical authority. This determination of power can consist in the granting of a particular office or in the allotment of subjects, and it is done according to the norms approved by the supreme authority. An additional norm of this sort is required by the very nature of the case, because it involves functions [*munera*] which must be exercised by many subjects cooperating in a hierarchical manner in accordance with Christ's will. It is evident that this "communion" was applied in the Church's life according to the circumstances of the time, before it was codified as law[52].

In the *Preliminary Note of Explanation* a distinction is made between "sacred functions" and "powers" ready to act. However, such a distinction does not seem to deny the sacramental origin of

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[50] Preliminary Note of Explanation, in *AAS* 57 (1965) 72-75. For the context, significance and interpretation of the Note: J. Ratzinger, *Il nuovo popolo di Dio*, 209-216.

[51] H. Rikhof, "Vatican II and Collegiality of Bishops: A Reading of *Lumen Gentium* 22 and 23", in *Concilium* 4 (1990) 16.

[52] *Preliminary Note of Explanation,* no. 2; in *AAS* 57 (1965) 73.

all episcopal powers. It is obvious that the powers received from God through the action of the Holy Spirit can only be exercised in a diocese or in another office determined by "hierarchical authority". Moreover, the text of the Second Vatican Council, which was approved by a large majority of the Council Fathers and promulgated by Pope Paul VI, makes no distinction between functions and powers. It merely teaches that "the fullness of the sacrament of Order is conferred by episcopal consecration" and that "episcopal consecration, along with the office of sanctifying, also confers the offices of teaching and governing". However, the conciliar text states that the offices of sanctifying, teaching and governing can be exercised in "hierarchical communion" with the head of the college and its members". Jean-Marie Roger Tillard comments on this point as follows:

> The bishop of Rome does not give the *munus*, in the sense understood by the Explanatory Note, for this comes from the Spirit of God and is conferred through the ministry of bishops ordaining their new brother. What he does give to the new bishop is the place which will enable him to play his part within the communion of the churches[53].

Joseph Ratzinger also agrees that the *Preliminary Note of Explanation* does not exclude the ontological sacramental origin of all episcopal powers, but concerns the canonical determination of the church or office (the mode of which varied throughout history) in which episcopal power is exercised[54].

Although communion has been a key concept in Christianity since apostolic times to explain the relationships between the various ranks of the Christian faithful, especially among the bishops, "hierarchical communion" is a new juridical concept. According to Cardinal Walter Kasper, with the notion of hierarchical communion, "the old distinction between *ordo* and *iuridictio* is maintained in a new way. *Communio hierarchica* is therefore a typical compromise

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[53] J.-M. R. Tillard, *L'évêque de Rome*, 193; *The Bishop of Rome*, 155.

[54] J. Ratzinger, *Il nuovo popolo di Dio*, 210-212.

formulation, which points to a juxtaposition of sacramental communion ecclesiology and juristic unity ecclesiology"[55].

The new juridical concept of "hierarchical communion" introduced by the Council and the distinction between powers and functions proposed in the *Preliminary Note of Explanation* permitted some to maintain the separation between the power of order and the power of jurisdiction. Therefore, even after the Second Vatican Council, there are two interpretations of episcopal authority.

3.1. Sacramental and Divine Origin of All Episcopal Powers

For most theologians, episcopal power in its unity and totality of functions is conferred sacramentally in episcopal consecration. According to Wilhelm Bertrams, episcopal consecration also constitutes the power of jurisdiction in its substance and according to its inner structure, but the incorporation into the hierarchical communion and the legal determination of the ambit of exercise represent the *conditio sine qua non*, through which the power is constituted according to its external nature and becomes exercisable[56]. According to several theologians, episcopal consecration is the efficient cause, the organic and constitutive element that confers all episcopal power, be it that of order or that of jurisdiction. Jurisdictional power, like any other power, emanates directly from Christ, who acts through the sacrament, but there is a condition for the exercise of this power, the ecclesial and hierarchical communion, of which the Roman Pontiff is the guarantor[57].

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[55] W. Kasper, *Theology and Church*, London 1989, 158; cf. *That They May All Be One: the Call to Unity Today*, 84.

[56] Cf. W. Bertrams, "De questione circa originem potestatis", 475-476; "De synodi episcoporum potestate cooperandi", 531-534; "Episcopato e primato nella vita della Chiesa", 216-221; "La collegialità episcopale", 441-443; "Il soggetto del potere supremo nella Chiesa", 468; "De gradibus communionis", 286-305; "De potestatis episcopatis exercitio", 456-465; *Questiones fundamentales iuris canonici*, 426-430.

[57] Cf. J. Ratzinger, *Il nuovo popolo di Dio*, 193-194; "La collegialità episcopale: spiegazione teologica del testo conciliare, in G. Barauna (ed.), *La Chiesa del Vaticano II*, Firenze 1965, 736-742; K. Rahner, "The Hierarchical Structure of the Church with Special Reference to Episcopate", 193-194. Y. Congar

The powers which the bishop receives directly from Christ through the action of the Holy Spirit in episcopal consecration can only be exercised in the Catholic Church in communion with the Pope and the college of bishops. Every bishop who is validly and lawfully consecrated in the Catholic Church is in communion with the Bishop of Rome and the episcopal college. Moreover, bishops share in the supreme priesthood of Christ and receive the three offices or powers in the same way and to the same degree through the same act of episcopal consecration, from God through the action of the Holy Spirit, the Spirit of unity, who does not separate the powers. Theologically speaking, therefore, the power to govern and teach can be exercised in the same way as the power to sanctify. The canonical mission can be seen as an outward expression of communion, which also determines the ambit of the exercise of episcopal authority that the person has received at the consecration. Basil Christopher Butler writes about the Council's clear affirmation of the sacramental origin of episcopal authority: "It can hardly be doubted that by this clear affirmation, the Council linked itself with the profound tradition of the Church and took its stand firmly against

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emphasises also the necessity of conformity with the apostolic faith and doctrine: *Ministères et communion ecclésiale*, 45-80; "La Chiesa è apostolica", 663-671; *La tradizione e le tradizioni*, vol. 2, Roma 1965, 23-26; J. Lécuyer, "L'episcopato come sacramento", in G. Barauna (ed.), *La Chiesa del Vaticano II*, Firenze 1965, 713-732; U. Betti, "Il papa e gli altri membri del collegio" in G. Barauna (ed.), *La Chiesa del Vaticano II*, Firenze 1965, 763-764; *La dottrina sull'episcopato del Concilio Vaticano II*, *Il capitolo III della costituzione dogmatica Lumen gentium*, Roma 1984, 364-375. For a detailed discussion and solutions to connected problems: G. Philips, *l'Eglise et son mystère au IIe concile du Vatican*, vol. 1, Paris 1967, 246-276; A. Anton, "Sinodo e collegialità extraconciliare dei vescovi", in V. Fagiola & G. Concetti (edd.)., *La collegialità episcopale per il futuro della Chiesa*, Firenze 1969, 63-65; "The Theological Status of Episcopal Conferences", in *The Jurist* 48 (1988) 202-203; *Primado y colegialidad*: *sus relaciones a la luz del primier sinodo extraordinario*, Madrid 1970, 120; B. Gherardini, *La Chiesa oggi e sempre*: *saggi storico-critici di aggiornamento ecclesiologico,* Milano 1973, 171-178; J.-M. R. Tillard, *L'évêque de Rome*, 192-193; B. C. Butler, *The Theology of Vatican II*, London 1967, 98-99; D. Valentini, "An Overview of Theologians' Positions: A Review of Major Writings (on Collegiality) and the State of the Question Today", in *Concilium* 4 (1990) 35-36; E. Lanne, "L'Eglise locale et l'Eglise universelle", 498; K. Mörsdorf, "Die hierarchische Struktur der Kirchenverfassung", 410; H. J. Schulz, "Eglise locale et Eglise universelle: Primauté, collégialité et synodalité", in *Proche-Orient Chretién* 31 (1981) 9-11.

an aberrant Western theology of Holy Orders"[58]. Cardinal Walter Kasper comments on the ecumenical significance of the Council's teaching concerning the sacramentality of the episcopate, which attempted to overcome "the distinction between the powers of consecration and jurisdiction":

> In the Latin Church prior to the Council this distinction has led to the widely-held theory that the consecrating powers of the bishop are transmitted through his consecration as bishop, while his powers of jurisdiction are bestowed on him by the Pope. This theory arises out of the Western universalist, centralist and pyramidal concept of the Church in the Latin West in the second millennium. The Council attempted to perceive once more the unity of the powers of consecration and jurisdiction, and to anchor the pastoral powers in the consecration of the bishop, following the earlier tradition[59].

The position of the Second Vatican Council regarding the jurisdiction of Orthodox bishops is another fact that confirms the divine sacramental origin of all episcopal powers. Concerning the special position of the Eastern Orthodox Churches, the Council declares:

> To remove, then, all shadow of doubt, this holy Council solemnly declares that the Churches of the East, while remembering the necessary unity of the whole Church, have the power to govern themselves according to the disciplines proper to them, since these are better suited to the character of their faithful, and more for the good of their souls [...]"[60].

This is possible because they are true Churches with valid holy Orders and the Orthodox bishops receive all powers from Christ through the action of the Holy Spirit in episcopal consecration[61]. According to Walter Kasper not only the cited statement, but also the possibility of sacramental sharing permitted by the Council (*OE*

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[58] B. C. Butler, *Theology of Vatican II*, 99.

[59] W. Kasper, *That They May All Be One: the Call to Unity Today*, 84.

[60] Vatican II, *Unitatis redintegratio*, no. 16.

[61] The *Nota explicativa previa* did not decide on the power exercised among the separated Eastern Churches but left the question to theologians to discuss. Cf. *AAS* 57 (1965) 75. For such a discussion: I. Žužek, "La giurisdizione dei vescovi ortodossi dopo il Concilio Vaticano II", in *Civiltà cattolica* 122 (1971) 550-562.

27) in some circumstances presupposes the power of governance or jurisdiction of Orthodox bishops[62]. Obviously, the Orthodox bishops do not receive the power of governance from the Bishop of Rome by canonical mission or any other juridical act.

Subsequent official Roman documents have maintained the teaching of the Council regarding episcopal consecration and hierarchical communion, but they have not continued the distinction between functions and powers found in the *Preliminary Note of Explanation*. They have confirmed that episcopal power of jurisdiction in the Catholic Church can only be exercised in the hierarchical communion of the individual bishops with the Roman Pontiff and the college of bishops[63].

3.2. Jurisdictional Approach

Even after the Second Vatican Council, some exponents of absolute papal supremacy and monarchical ecclesiology endeavored to maintain the separation of the powers of order and jurisdiction as proposed in the second millennium. According to this approach, only the power of Orders, namely the spiritual authority to ordain and perform the sacramental rites, is received directly from Christ at episcopal consecration, while the power of jurisdiction, namely the power to teach and govern, is conferred on bishops by the Roman Pontiff. The sacrament of Order only confers the attitude or disposition to receive jurisdiction. Christ directly conferred full, supreme and universal authority only on Peter and his successors, and it is the Roman Pontiff who confers this power of jurisdiction on the bishops, either collegially or singularly[64]. Using the concept

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[62] W. Kasper, *That They May All Be One: the Call to Unity Today*, 85.

[63] John Paul II, Ap. Exhortation, *Pastores Gregis*, *On the Bishop, Servant of the Gospel of Jesus Christ for the Hope of the World,* on 16 October 2003, Vatican City 2003, nos. 8, 55-56; Congregation for Bishops, *Apostolorum successores*, Directory for the Pastoral Ministry of Bishops, 22 February 2004, Vatican City 2004, Introduction, and no. 12.

[64] Cf. D. Staffa, "De collegiali episcopatus ratione", 42-46; A. Gutierrez, "Collegium episcopale tamquam subiectum plenae et supremae potestatis", 425-426; U. Lattanzi, "Episcopalis collegii ad papam relatio", 136-145; "De nexu agnoscendo inter episcopalem consecrationem et sacra Ecclesiae munera", 398-410. For a synthetic presentation of the position of the same authors: G. Mazzoni,

of "hierarchical communion" and the distinction between powers and functions, the most prominent exponent of this position today, Cardinal Gianfranco Ghirlanda, argues that "the authority to govern and authentically teach is transmitted to legitimately consecrated bishop by means of the canonical mission, which is a direct or indirect exercise of the power of the head of the hierarchical communion so that they can exercise their episcopal ministry in the Church entrusted to them"[65]. However, as we have seen above, such a theory, which manifests the monarchical jurisdictional ecclesiology of the second millennium, was abandoned by the Second Vatican Council and the post conciliar Church.

3.3. The Teaching of Vatican II and the Eastern Tradition

Orthodox Churches have always maintained the common tradition of the undivided Church concerning the divine, sacramental origin of all episcopal powers. The teaching of the Second Vatican Council on the sacramentality of the episcopal office is consistent with the genuine Eastern tradition, which makes no distinction or separation between the power of order and the power of jurisdiction. Through consecration, and only by virtue of it, the bishop is endowed with the fullness of powers necessary for the exercise of his ministry in a particular Church[66]. Cardinal Pierre

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La Collegialità episcopale tra teologia e diritto canonico, Bologna 1986, 62-63, 76-78.

[65] G. Ghirlanda, "Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law", in R. Latourelle (ed.), *Vatican II Assessment and Perspectives Twenty-Five Years After (1962-1987)*, vol. 2, New York 1989, 250; cf. also *"Hierarchica Communio" –significato della forma della Lumen gentium*, Roma 1980, 410-429. Recently he confirmed the same position: G. Ghirlanda, *Chiesa universale a chiesa particolare*, 479-494.

[66] Cf. D. Salachas, "Il principio della struttura sinodale delle Chiese orientali", 237-238; J. D. Zizioulas, *Being as Communion,* 137 and 197-198; "Cristologia, pneumatologia e istituzioni ecclesiastiche: un punto di vista ortodosso", in G. Alberigo (ed.), *L'ecclesiologia del Vaticano II: dinamismi e prospettive*, Bologna 1981, 122-123; L. Mortari, *Consacrazione episcopale e collegialità*: *la testimonianza della Chiesa anthica,* Firenze 1969, 135 and 149-150; J. H. Erickson, "Common Comprehension of Christians concerning Autonomy and Central Power", 100-112; P. L'Huillier, "Rapport entre pouvoirs d'ordre et de

Duprey summarizes Orthodox theology regarding this point as follows:

> Another important result, as regards the ordination of a bishop, is that canonical election and consecration is enough to constitute a person as a bishop of the Church for which he is consecrated. By his very ordination he has the three powers necessary for his function, so that there is no need or even room, for a "canonical mission" which would be added to the election and ordination performed in the communion of the Church so as to complete the latter for the sake of the exercise of the function[67].

Cardinal Walter Kasper confirms: "The pre-conciliar distinction between consecration and jurisdiction was unknown to the early Church and is still unknown in the East […]; the more recent theory of *communio hierachica* is equally unknown in the East"[68]. According to Orthodox theology, a bishop receives all his powers through episcopal consecration. Normally a bishop is consecrated for a community, or there is no episcopate without an attached community.

4. The Collegiality of the Bishops

Another most important achievement of the Second Vatican Council is the reinstatement of the doctrine of collegiality. The apostles, the Church Fathers and their successors acted collegially, as the various provincial, regional and ecumenical synods of the first millennium prove[69]. The Second Vatican Council recognises the

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jurisdiction dans la tradition orientale", in *Revue de Droit Canonique* 23 (1973) 281-289.

[67] P. Duprey, "The Synodical Structure of the Church in Eastern Theology", 176. Cf. also I. Žužek, "La giurisdizione dei vescovi ortodossi dopo il Concilio Vaticano II", 555.

[68] W. Kasper, *That They May All Be One: the Call to Unity Today*, 84. Obviously he speaks about the Eastern Churches which are not in full communion with the Bishop of Rome.

[69] Cf. J. Hajjar, "La collegialità episcopale nella tradizione orientale", 810-831; G. Dejaifve, "La collegialità episcopale nella tradizione latina", 832-842; J. Colson, *L'épiscopat catholique: collégialité et primauté dans les trois premiers siècles de Eglise* (*Unam Sanctam* 43), Paris1963, 15-136; H. Marot, "Primacy and Decentralization of the Early Church", in *Concilium* 1 (1965) 9-16; P. Gouyon,

collegial action of bishops since apostolic times and cites some examples: the holding of various types of assemblies and synods, in particular ecumenical councils and the plurality of bishops at episcopal consecration[70].

4.1. The Divine Origin of the Episcopal College

Having recognized the collegial action of bishops since apostolic times, the Council confirms the divine origin of the episcopal college as such:

> Just as in the Gospel, the Lord so disposing, St. Peter and the other apostles constitute one apostolic college, so in a similar way the Roman Pontiff, the successor of Peter, and the bishops, the successors of the apostles, are joined together[71].

The origin and foundation of the college of bishops is the college of twelve apostles. This college originated from Jesus himself and was a permanent assembly, at the head of which Jesus placed Peter[72]. Like the apostolic college, the Pope, the successor of Peter, and the bishops, the successors of the apostles, form a college that goes back to the beginning by virtue of uninterrupted succession. In other words, since the office of the apostles is collegial and the bishops are successors of the apostles, the office of the bishops is also collegial insofar as their college has taken the

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"Collegiality in the Early Church Tradition", in Y. Congar, H. Hüng & D. O' Hanlon (eds.), *Council Speeches of Vatican II*, London-New York 1976, 39-41.

[70] Vatican II, *Lumen gentium*, no. 22.

[71] Vatican II, *Lumen gentium*, no. 22.

[72] Cf. Vatican II, *Lumen gentium* 18-19; for the twelve apostles as a college, Cf. J. Ratzinger, "The Pastoral Implications of Collegiality", in *Concilium* vol. 1, no. 1 (January 1965) 20-21; *Il nuovo popolo di Dio*, 221-224; For the biblical basis of 12 apostles as a college S. Lyonnet, "I fondamenti scritturistici della collegialità episcopale", in G. Barauna (ed.), *La Chiesa del Vaticano II*, Firenze 1965, 793-809; G. Philips, *l'Eglise et son mystère au IIe concile du Vatican*, vol. 1, 231-233; Maximos IV, "La collégialité épiscopale", in *Irénikon* 3 (1963) 319-320; B. Botte, "La collégialité dans le Nouveau Testament chez les pères apostoliques", in *Le concile et les conciles: contribution à histoire de la vie conciliaire de l'Eglise*, Paris 1960, 1-18; P. Rusch, "Kollegiale Struktur des Bischofsamtes", in *Zeitschrift für Katholische Theologie* 86 (1964) 263-269.

place of the college of the apostles[73]. The episcopal college is therefore the continuation of the apostolic college or the apostolic college is perpetuated through the episcopal college[74].

Every lawfully consecrated bishop who is in communion with the other bishops and with the Pope, the head and principle of their unity, is a member of the episcopal body[75]. Regarding the divine origin of the episcopal college *Lumen gentium* affirms: "One is constituted a member of the episcopal body in virtue of the sacramental consecration and by the hierarchical communion with the head and members of the college"[76]. The Decree on the Pastoral Office of the Bishops confirms: "By virtue of sacramental consecration and hierarchical communion with the head and members of the college, bishops are constituted as members of the episcopal body"[77].

The episcopal college is thus constituted by the sacrament of Order. According to Karl Rahner, the divine institution of the college as such is contained in the statements of the text, since it teaches the divine institution of the episcopal office, and the college as such could not have the supreme and full authority in the Church if it were constituted only by positive ecclesiastical law. If it were founded by any other authority in the Church, it would be dependent on it and therefore could not possibly be the bearer of supreme and full authority[78].

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[73] J. Ratzinger, "The Pastoral Implications of Collegiality", 21; *Il nuovo popolo di Dio*, 199-202 and 224-225; G. Philips, *L'Eglise et son mystère au IIe concile du Vatican*, vol. 1, 237-245; B. Gherardini, *La Chiesa oggi e sempre,* 164-170; K. Mörsdorf, "Die hierarchische Struktur der Kirchenverfassung", 408.

[74] Vatican II, *Lumen gentium*, no. 22; *Christus Dominus,* no. 4.

[75] Cf. Vatican II, *Christus Dominus*, no. 4; *Lumen gentium*, no. 22.

[76] Vatican II, *Lumen gentium*, no. 22; cf. also *Christus Dominus*, no. 4. In the preliminary voting conducted on 29 November 1963, 2049 out of 2154 Fathers gave *placet*, 104 non *placet* and 1 null (*Acta synodalia* II: 3, 574 & 670). In the final voting in September 1964, this was the eleventh theme and it received 1898 *placet* as against 313 *non placet*, and 2 null out of the 2243 Fathers who were present in the Synod-hall (*Acta synodalia* III: 8, 53).

[77] Vatican II, *Christus Dominus*, no. 4.

[78] K. Rahner, "The Hierarchical Structure of the Church with Special Reference to Episcopate", 199; cf. also K. Rahner - J. Ratzinger, *Episkopat und*

The divine origin of the college and of collegial power is thus derived from the fact that the episcopate and all episcopal power are of divine origin and that the college of bishops is the continuation of the apostolic college instituted by Christ himself. Regardless of whether the bishops are gathered in a particular place or not, the college exists as the successor of the apostolic college as such and always possesses supreme and full authority. In short, the college of bishops exists by divine right, but the exercise of its power can be regulated by human ecclesiastical laws[79].

4.2. Collegiality as an Expression of Ontological Sacramental Communion

As we have already seen, the episcopal college, which succeeds the apostolic college, is constituted by the sacrament of Holy Orders. As St Cyprian states: "The episcopate is one and indivisible […]. The episcopal dignity is one and each bishop possesses a portion of it in solidarity without the division of the whole"[80]. Through their communion in the same sacrament all members of the college share in one and the same priesthood of Christ, in one and the same universal mission of ministry, as well as in one and the same office and responsibility, all of which were conferred by Christ on the same college, to which he assigned a head[81].

Primat, 70-80; *The Episcopate and the Primacy*, 75-83; U. Betti, "Il papa e gli altri membri del collegio", 762-765. For the divine origin of the collegial power: W. Bertrams, "La collegialità episcopale", 445-450.

[79] Cf. J. Ratzinger, *Il nuovo popolo di Dio*, 194; C. Butler, *Theology of Vatican II*, 103; E. Schillebeeckx, *L'Eglise du Christ et l'homme d'aujourd'hui selon Vatican II*, Paris 1965, 100. In the voting conducted on 29 October 1963 to elicit the opinion of the Fathers the question, "Utrum placet Patribus ita apparari Schema ut dicatur praedictam potestatem ipsi Collegio Episcoporum Capiti unito competere iure divino", received 1717 *placet,* and only 408 non *placet* (*Acta Synodalia* II: 3, 574 and 670.

[80] St. Cyprian, *De Unitate Ecclesiae* V, *PL* 4, col. 501; English translation: J.-M. R. Tillard, *Church of Churches: the Ecclesiology of Communion*, 204.

[81] Cf. T. J. Urresti, "The Ontology of Communion and Collegial Structures in the Church", in *Concilium* 1 (1965) 6; U. Betti, "Il papa e gli altri membri del collegio", 765; G. Greshake, "Die Stellung des Protos", 20; W. Kasper, "Der theologische Status der Bischofskonferenzen", in *Theologische Quartalschrift* 167 (1987) 3.

As Wilhelm Bertrams explains, episcopal consecration, in its substantial ontological reality, constitutes a communion that unites the bishops with Christ and with one another in the ministry of the Word and the sacraments, just as baptism produces an ontological communion of all believers. Through episcopal consecration, Christ confers the power of pastoral governance, both personal and collegial, through the gift of the Holy Spirit, who creates and guarantees the communion of all bishops[82]. Through episcopal consecration, therefore, one becomes a member of the college, and this brings about a situation of mutual communion among the bishops for the service of the ecclesial communion of the faithful at the level of the particular Church and the universal Church. Therefore, episcopal collegiality can be seen as an expression of the sacramental ontology of communion. Walter Kasper argues that the renewed ecclesiology of communion forms the background for the doctrine of the collegiality of the episcopate. Collegiality is the official external aspect of sacramental unity in communion[83].

4.3. The Relationship between the Primatial Power and the Collegial Power

The relationship between the Roman Pontiff and the college of bishops or, in other words, between the Bishop of Rome and the ecumenical council was a matter of tension and misunderstanding, especially in the second millennium and one of the main causes of division and schism in the Church. An equilibrated approach to this question is of the utmost importance for the reestablishment of full communion especially with the Orthodox Churches. Regarding the relationship between the Roman Pontiff and the college of bishops the Second Vatican Council solemnly teaches:

> For the Roman Pontiff by reason of his office as Vicar of Christ, namely, and as pastor of the entire Church, has full, supreme and universal power over the whole Church, a power which he can always exercise unhindered. The order of the bishops is the successor to the

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[82] Cf. W. Bertrams, "Communio, communitas et societas", 553-604; "De potestatis episcopalis constitutione et determinatione in Ecclesia", 380; *Questiones fundamentales iuris canonici*, 447-449.

[83] W. Kasper, *Theology and Church*, 157.

> college of the apostles in their role as teachers and pastors, and in it the apostolic college is perpetuated. Together with the head, the supreme Pontiff and never apart from him, they have supreme and full authority over the universal Church; but this power cannot be exercised without the agreement of the Roman Pontiff[84].

The most solemn form of exercising the supreme power of the college of bishops is an ecumenical council. Vatican II continues: "The supreme power in the universal Church, which this college enjoys, is exercised in a solemn way in an ecumenical council. A council is never ecumenical unless it is confirmed or at least accepted as such by the successor of Peter; and it is prerogative of the Roman Pontiff to convoke these councils, to preside over them and to confirm them"[85].

According to the teaching of the Council the Roman Pontiff alone has "full, supreme and universal power over the whole Church, a power which he can always exercise unhindered". The college – Roman Pontiff and bishops together – also has "supreme and full authority over the universal Church". It seems that in the Catholic Church there are two subjects with the same supreme power: the Pope alone and the Pope with the universal episcopate. It appears that the ecumenical council, the most solemn form of the exercise of the supreme power of the college with and under the pope, is to be confirmed once again by the Pope individually. Even after the Second Vatican Council, there are three theological opinions on this unresolved question of the relationship between the Pope and the college of bishops.

4.3.1. The Jurisdictional Approach: Only Roman Pontiff as the Real Supreme Authority

According to the jurisdictional approach, there cannot be two subjects of supreme and universal authority in the Church, but only one; and this is absolutely or properly the Roman Pontiff, even though he may, at his free will, exercise his authority personally or associate himself with the episcopal body. Therefore, the college can only be the subject of supreme power in a relative and participative

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[84] Vatican II, *Lumen gentium*, no. 22.

[85] Vatican II, *Lumen gentium*, no. 22.

sense, insofar as the Roman Pontiff shares his full and universal power with the college of bishops. The main, original and proper subject of supreme power is the Roman Pontiff alone, who can exercise it personally or collegially. Only in a secondary, accessory, contingent and participatory sense can one speak of a double subject[86]. In the ecumenical council, the college of bishops exercises supreme and universal authority, but only as a participation in and derivation from the sole holder of this power, the Roman Pontiff[87].

4.3.2. Two Subjects of the Same Supreme Authority

Another theological opinion is that there are two subjects of one and the same supreme authority in the Church, which are not adequately distinguished: the Pope on the one hand and the Pope with the other members of the college of bishops on the other. The main proponent of this theory, Wilhelm Bertrams, maintains this:

> There is only one supreme power in the Church, namely the power that Christ gave to the Church. It is realized in two ways: through the personal action of the Roman Pontiff, since he is the vicar of Christ; and through the action of the episcopal body, if and insofar as it acts collegially with the Pope, the head of the episcopal body, for inasmuch as he is the vicar of Christ, the episcopal body is also subject to him[88].

According to divine law, the Pope is personally the subject of supreme power in the Church; likewise, according to the same

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[86] Cf. D. Staffa, "De collegiali Episcopatus ratione", 10-17; A. Gutierrez, "Collegium episcopale tamquam subiectum plenae et supremae potestatis", 431-442; U. Lattanzi, "Episcopalis collegii ad papam relatio", 140-145; "De nexu agnoscendo inter episcopalem consacrationem et sacra Ecclesiae munera", 411-412. For a synthesis of the thought of D. Staffa, A. Gutierrez and U. Lattanzi, G. Mazzoni, *La Collegialità episcopale,* 59-79; For an interpretation of episcopal collegiality in line with the monarchic view: A. Garuti, *La collegialità oggi e domani*, Bologna 1982, 55-56; however, for the critical evaluation and unacceptability of this thesis see Y. Congar, *Ministères et communion ecclésiale*, 190-202; "Sinodo, primato e collegialità episcopale", in V. Fagiolo & G. Concetti (edd.), *La collegialità episcopale per il futuro della Chiesa*, Firenze 1969, 46-51.

[87] D. Staffa, "De collegiali Episcopatus ratione", 58.

[88] W. Bertrams, *Quaestiones fundamentales iuris canonici*, Roma 1969, 365; this article was first published in *La Civiltà Cattolica* 115/1 (1964) 436-455.

divine law, the college of bishops united to its head is also the subject of supreme power. There is therefore a double subject, but it is not possible to consider the college of bishops without its head, because the first (the Pope) is at the same time part of the second (the college of bishops) as its head. In this way, the two subjects of the same supreme power in the Church are insufficiently distinguished: the Pope on the one hand and the college of bishops with and under the Pope, because two supreme authorities in one and the same society are something metaphysically impossible. The difference between the two is that the Pope is in free possession of his power and always exercises it freely. The college also has a supreme power that it cannot exercise freely, as it depends on its head and must act with and under him[89]. According to this theory, there is only one supreme power, but two insufficiently distinct subjects of the same power.

4.3.3. Only One Subject of the Supreme Authority: the Episcopal College with and Under the Pope

Many theologians are of the opinion that there is only one subject of supreme power, namely the episcopal college with the Pope as its primatial head. The college of bishops, the supreme authority of the Church, exercises its highest power in two ways: either through a "collegial act" in the proper sense (Pope and college of bishops together) or through an act of its head, the Pope, who in this case also acts precisely as the head of the college. Karl Rahner presents his thesis as follows:

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[89] Cf. W. Bertrams, "Il soggetto del potere supremo nella Chiesa" 570-571; "De subjecto supremae potestatis Ecclesiae", 173-232; "De potestatis episcopalis exercitio", 471-473; *Questiones fundamentales iuris canonici*, 400-401; for a synthesis of the thought of Bertrams: G. Mazzoni, *La Collegialità episcopale*, 81-161. For the same position: J. Hamer, "I soggetti della suprema potestà nella Chiesa: visione teologica", (in AA. VV.) *Il nuovo codice di diritto canonico: novità, motivazione e significato*, Rome 1983, 139-148; U. Betti, "Il papa e gli altri membri del collegio", 766-770; *La dottrina sull'episcopato del Concilio Vaticano II*, 384-389; G. Philips, *L'Eglise et son mystère au IIe concile du Vatican*, vol. 1, 297-298; K. Mörsdorf, "Die hierarchische Struktur der Kirchenverfassung", 413-414. For the critical analysis and demerits of this position: B. Gherardini, *La Chiesa oggi e sempre*, 188-192.

> The bearer of the highest and supreme power in the Church is the united episcopate with and under the pope as its head. This single bearer can exercise its plenary power either in a 'collegiate act' in the true sense, or through an act of its head, the pope, who even in this case acts precisely as head of the college, without having to be commissioned for this by the rest of the bishops (the mere fact that they are such does not in itself constitute them as a college) by means of a juridical act on the part of these other bishops. Thus there is only one subject endowed with supreme power in the Church; the college of bishops assembled under the pope as its head. But there are two modes in which this supreme college may act; a collegiate act properly so called, and the act of the pope as head of the college[90].

Many other theologians also see the office of the Pope, who in terms of sacramentality is a bishop among other bishops and a member of the college of bishops through consecration, as a ministry of unity within the episcopal college of bishops and as the head of the college[91].

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[90] K. Rahner, "On the Relationship between the Pope and the College of Bishops", in *Theological Investigations*, vol. 10, London 1973, 55; cf. also "The Hierarchical Structure of the Church with Special Reference to Episcopate", 203-204; "Zum Verhältniss zwischen Papst und Bischofskollegium", in *Euntes Docete*, 20 (1967) 41-57; "Das Zweite Vatikanische Konzil: Dokumente und Kommentare", in *Lexikon für Theologie und Kirche*, vol. 1, Freiburg 1966, 220-229; "Sulle conferenze episcopali", in *Nuovi saggi*, vol. 1, Roma 1968, 516-517 & 554-562; K. Rahner - J. Ratzinger, *Episkopat und Primat*, 80-93; *The Episcopate and the Primacy*, 86-92.

[91] It is difficult to quote all these theologians in the body itself. Therefore, I give only references. H. Bacht, "Episcopatus unus est.".. (Cyprian): Zur neuesten theologischen Diskussion über das Bischofsamt", in *Scholastic* 37 (1962), 166-174; O. Semmelroth, "Die Lehre von der kollegialen Hirtengewalt über die Gesamtkirche unter Berücksichtigung der aufgeführten Erklärungen", in *Scholastik* 40 (1965), 175-177. Y. Congar also accepts this position because it has basis both in East and Wesr: *Ministères et communion ecclésiale*, 202-214; "Sinodo, primato e collegialità episcopale", 52-58. See also B. Gherardini, La *chiesa oggi e sempre*, 193-199; P. Rusch, "Die kollegiale Struktur des Bischofsamtes", 284; E. Schillebeeckx, *L'Eglise du Christ et l'homme d'aujourd'hui,* 99-100; G. Dejaifve, "La collegialità nella tradizione latina", 845-849; "Peut-on concilier le collège épiscopal et la primauté?", in *La Collégialté Episcopale* (*Unam Sanctam* 52), Paris 1965, 300-303; C. Buttler, *The Theology of Vatican II*, 102 -109; T. J. Urresti, "L'autorité du pontife romaine sur le collège episcopal et, par son intermédiaire, sur l'Eglise universelle", in *La collégialité épiscopale* (*Unam Sanctam* 52), Paris 1965, 223-287. J.-M. R. Tillard, *L'évêque de Rome*, 62-69 and 155-235; *L'Eglise*

This position in no way affects the importance and uniqueness of the primacy of the Pope. He can act "alone" as primate and exercise "full, supreme and universal power over the whole Church" as defined by the Second Vatican Council, since he does not need to make use of a regularly constituted collegial body in the strict sense. Nevertheless, he always acts as the head of the college. The exercise of supreme power by the Pope is primatial, as the college cannot force him to perform a certain act or to reject his personal actions. Likewise, the episcopal college is nothing and can do nothing without its head. Only the episcopal college with its head, the Roman Pontiff, "has supreme and full authority over the universal Church". In short, there is only one subject endowed with the supreme power in the Church: the college of bishops under the Pope as the head. This supreme college can act in two ways: through a so-called "collegial act" and through the act of the Pope as head of the college. When the college acts as such, it always has the Pope as its head; when the Pope seems to act alone, he always acts as the head of the college. It is therefore the same authority exercised by all in a collegial or synodal manner or by the one who is the head in a personal or primatial manner.

4.3.4. Agreement with Eastern Tradition and Ecumenical Acceptability

The third position, the college of bishops with and under the Pope as the supreme authority of the Church seems to correspond more to the common tradition of the undivided Church and therefore certainly meets with greater ecumenical approval. In fact, this is the only position that is acceptable to the Orthodox Churches and the communities of the Reformation. It is consistent with the synodal

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d'Eglises: *L'ecclésiologie de communion*, 323-397; A. Anton, *Primado y colegialidad*, 67-79; C. Colombo, *Scritti teologici*, Milano 1966, 250-259; "Il significato della collegialità episcopale nella Chiesa", in *Ius Canonicum* 19 (1970) 15; G. Greshake, "Die Stellung des Protos", 21; A. Ganoczy, "Come valorizzare la collegialità in rapporto al primato pontificio?", in *Concilium* 4 (1971) 118-119; W. Aymans, "Papst und Bischofskollegium als träger der kirchlichen Hirtengewalt: Gedenken zu einer Schrift gleichen Titels von W. Bertrams", in *Archive für katholisches Kirchenrecht* 135 (1966) 146-147.

principle, which is held in high esteem throughout the Christian East. In this regard, the words of Cardinal Duprey are enlightening:

> It would seem that there is no hope of finding a meeting point with the East unless one holds that there is but one holder of the supreme authority in the Church, namely the episcopal college including the pope, which does however have two ways of exercising its authority, the one collective and the other personal–these two ways being interdependent, in line with number thirty-four of the Apostolic Canons[92].

Concerning the teaching of the Second Vatican Council on collegiality, the Orthodox Metropolitan Kallistos Ware, who considers the Church to be conciliar by nature, affirms that the Orthodox have been encouraged by the declaration of the Second Vatican Council on corporate authority. It is in the area of collegiality that the most spectacular progress has been made in Orthodox-Catholic relations, although the Second Vatican Council's teaching on collegiality differs from what the Orthodox understand by conciliarity. He states:

> We Orthodox are disturbed by the distinction which is constantly drawn in *Lumen gentium* between the 'Roman pontiff and the episcopal college as a whole. At times it seems to us that the pope is regarded not as the senior member and the elder brother *within* the episcopal college, but as a superior who is set *above* the college; and this clearly is not what the Orthodox understand by sobornost (synodality). For Orthodox it is the ecumenical council, the full gathering of the episcopal college, which comes first: the pope must be seen always as the *first* within that college, and as *first among equals* […][93].

In general, Orthodox theologians are prepared to accept the primacy of the Bishop of Rome as elder brother and *primus inter pares* within the college of bishops, presiding in charity with a universal responsibility and an all-embracing pastoral concern, but they

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[92] P. Duprey, "The Synodical Structure", 178; see also "Brief Reflections on the Title Primus Inter Pares", 11; W. De Vries "The Primacy of Rome as Seen by the Eastern Church", in *Diakonia* 6 (1971) 221-231; E. Lanne, "In che misura il primato romano è inaccettabile per le Chiese orientali?", in *Concilium* 4 (1971) 87-93.

[93] K. Ware, "Primacy, collegiality and the People of God", 26.

affirm, that they do not accept a Roman Pontiff invested with a universal supreme ordinary jurisdiction and standing above the college of bishops, with the authority to confirm, approve or overrule even the decisions of an ecumenical council, the supreme authority of the Church[94].

Should the churches or ecclesial communities of the Reformation ever recognize the primacy of the Bishop of Rome, this would not be a universal primacy of jurisdiction and supreme power over the Church, but a Petrine ministry or service of unity and communion within the Church[95].

Conclusion

It is evident that Vatican II maintained the dogma of the primacy of the Pope as defined in Vatican I, but it is balanced by the doctrine of the sacramentality and collegiality of the episcopate, placing the papacy within the episcopal college and considering the Petrine ministry as a service of communion and unity, as well as the ultimate guarantee of true faith and authentic discipline. Likewise, the personal infallibility of the Pope is confirmed in the context of the infallible teaching authority of the entire college of bishops and the prophetic office of the entire people of God. The purpose of the primacy, as explicitly declared at the First Vatican Council, remains the same, namely to ensure the unity of the episcopate, the Catholic faith and the communion of the Churches.

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[94] Cf. K. Ware, "Primacy, collegiality and the People of God", 27; N. Arseniev, "The Second Vatican Council's Constitution 'De Ecclesia'", 21-22; J. Meyendorff, "Vatican II: A Preliminary Reaction", 32-33; *L'Eglise orthodoxe hier et aujourd'hui*, 171-172; *Orthodoxie et catholicité*, 149; S. Harkianakis, "Può avere un senso un servizio di Pietro nella Chiesa?", 153-160; P. Evdokimov, "Può avere un senso un servizio di Pietro nella Chiesa?" 161-166; J. H. Erickson, "Common Comprehension of Christians concerning Autonomy and Central Power", 105-111; M. J. Le Guillou, "L'expérience orientale de la collégialité épiscopale", 174-181.

[95] Cf. P. C. Empie and T. A. Murphy (eds.), *Papal Primacy and the Universal Church* (*Lutherans and Catholics in Dialogue* V), Minnesota 1974, 23-33, 127-133, 193-207.

Chapter Six

PETRINE MINISTRY, COLLEGIALITY AND SYNODALITY IN THE LIGHT OF THE COMMUNION ECCLESIOLOGY OF THE SECOND VATICAN COUNCIL

Introduction

The First Vatican Council promulgated the doctrine of the universal primacy of the Roman Pontiff as a dogma of the Catholic Church that must be believed by all Catholics. In the context of the juridical and monarchical ecclesiology of the second millennium, which regarded the Church as a perfect society and the dioceses as administrative departments of the universal Church, the ultramontane advocates of absolute papal supremacy misinterpreted the dogma of primacy as the universal and supreme jurisdiction of the Roman Pontiff and reduced the bishops to the status of his delegates or officials[1]. The Second Vatican Council of course retained the unalterable dogma of papal primacy but balanced it out by restoring the sacramentality of the episcopate and the collegiality of the bishops[2]. In addition, the Council reestablished the ecclesiology of communion, which was the essential key to understanding the nature of the Church in the first millennium. This chapter is an attempt to evaluate primacy, collegiality and synodality in the light of the ecclesiology of communion.

1. The Second Vatican Council and the Reestablishment of Communion Ecclesiology

The Second Vatican Council was characterized by the confrontation between two ecclesiologies: the juridical universal ecclesiology and the ecclesiology of communion which is

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[1] For details and documentation, see Chapter Three, no. 8 and Chapter Four, nos. 1 and 2.

[2] See Chapter Five.

profoundly shaped by the biblical, patristic and liturgical tradition. The Council witnessed the conflict between these two ecclesiologies in its discussions, but in the end the ecclesiology of communion prevailed over the other. However, the two ecclesiologies are not properly coordinated or integrated[3].

In the period after the Council, an increasing growth in ecclesial consciousness and awareness of being Church as a communion of Churches can be observed. Even the collegiality and synodality of bishops are explained within the broad theological framework of communion, whereby the Church is understood as a mystery of communion and as a communion of Churches. In his address at the opening of the Extraordinary Synod of Bishops of 1969, Pope Paul VI emphasized that collegiality is nothing other than the communion of bishops; it is a particular expression of the communion of the Church[4]. The Second Extraordinary General Assembly of the Synod of Bishops in 1985 categorically affirmed this in its *Final Report*:

> The ecclesiology of communion is the central and fundamental idea of the Council's documents. *Koinonia*/communion, which is based on Holy Scripture, is highly honoured in the ancient Church and in the Eastern Churches until today. Since the Second Vatican Council much effort has been made, so that the Church as communion might be more clearly understood and concretely integrated into life[5].

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[3] For a detailed discussion: A. Acerbi, *Due ecclesiologie: ecclesiologia giuridica e ecclesiologia di comunione nella "Lumen gentium",* Bolonga 1976, 13-553; J.-M. R. Tillard, "The Church of God is a Communion: The Ecclesiological Perspective of Vatican II", in *One in Christ* 17 (1981) 117-118; E. J. Kilmartin, *Particular Liturgy of the Individual Church*, Bangalore 1987, 51-68; A. Anton, "Post Conciliar Ecclesiology: Expectations, Results, and Prospects for the Future", in R. Latourelle, *Vatican II: Assessment and Perspectives Twenty-Five Years after (1962-1987)*, New York 1988, 421-424.

[4] Cf. Paul VI, Homily on 11 October 1969, in *AAS* 61 (1969) 717-718.

[5] "Ecclesiologia communionis idea centralis ac fundamentalis in documentis concilii est. Koinonia/ communio, in S. Scriptura fundata, in Ecclesia antiqua et in Ecclesiis Orientalibus usque ad nostros dies magno honore habentur. Inde a Concilio Vaticano II multum factum est ut Ecclesia tamquam communio clarius intellegeretur ac magis concrete traduceretur in vitam". Second Extraordinary General Assembly of the Synod of Bishops, *Relatio finalis*, II, C, 1, in *L'Osservatore Romano*, 10 December 1985, 7.

Regarding the relationship between communion and collegiality, the *Final Report* points out that the ecclesiology of communion provides the sacramental basis for collegiality[6]. Joseph Ratzinger considered that the said Synod made a renewed effort to synthesize the ecclesiology of the Second Vatican Council and the "synthesis involved one basic concept: the ecclesiology of communion", which can "serve as a synthesis of the essential elements of the Council's ecclesiology"[7].

On 28 May 1992, the then Congregation (now Dicastery) for the Doctrine of the Faith published a letter entitled *Some Aspects of the Church Understood as Communion*, addressed to the bishops of the Catholic Church. This letter begins with a statement on the importance of the ecclesiology of communion:

> The concept of communion (koinonia), which appears with a certain prominence in the texts of the Second Vatican Council, is very suitable for expressing the core of the Mystery of the Church, and can certainly be a key for the renewal of Catholic ecclesiology. A deeper appreciation of the fact that the Church is a Communion is, indeed, a task of special importance, which provides ample latitude for theological reflection on the mystery of the Church […][8].

In 2003, Pope John Paul II confirmed that the ecclesiology of communion is the central idea of the Council's ecclesiology. The Pope quoted the aforementioned *Final Report* of the Synod of Bishops in 1985: "The Extraordinary Assembly of the Synod of Bishops in 1985 saw in the concept of an 'ecclesiology of communion' the central and fundamental idea of the documents of the Second Vatican Council. The Church is called during her earthly

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[6] "Ecclesiologia communionis offert fundamentum sacramentale collegialitatis". Second Extraordinary General Assembly of the Synod of Bishops, *Relatio finalis*, II C, 4, in *L'Osservatore Romano*, 10 December 1985, 7.

[7] J. Ratzinger, "The Ecclesiology of Vatican II", in *L'Osservatore Romano* (Weekly English edition), no. 4, 23 January 2002, 7.

[8] Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion* (28 May 1992), Vatican City 1992, no. 1.

pilgrimage to maintain and promote communion with the Triune God and communion among the faithful"[9].

In 2018, the International Theological Commission published the document: *Synodality in the Life and Mission of the Church*, "after receiving a favourable response from Pope Francis". In this document, the Commission emphasises the relationship between the ecclesiology of communion and synodality as follows:

> The dogmatic Constitution *Lumen gentium* offers the essential principles for a correct understanding of synodality in the perspective of the ecclesiology of communion. The order of its first chapters expresses an important step forward in the way the Church understands herself. The sequence – the Mystery of the Church (chapter 1), the People of God (chapter 2), the Hierarchical Constitution of the Church (chapter 3) – stresses that the ecclesiastical hierarchy is at the service of the People of God in order that the Church may carry out her mission in conformity with God's plan of salvation, in the logic of the priority of the whole over its parts and of the end over the means[10].

Finally, XVI Ordinary General Assembly of the Synod of Bishops has confirmed: "In the holy People of God, which is the Church, the communion of the faithful (*communio fidelium*) is at the same time the communion of the Churches (*communio Ecclesiarum*), which is manifested in the communion of Bishops (*communio Episcoporum*) by reason of the very ancient principle that "the Church is in the Bishop and the Bishop is in the Church" (St. Cyprian, *Epistle* 66, 8)"[11].

All these statements indicate that the ecclesiology of communion has become the key concept for understanding the essence and nature of the Church. Among the proponents of the ecclesiology of communion itself, however, two tendencies can be recognised, both of which are based on the teaching of the Second

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[9] John Paul II, *Ecclesia de Eucharistia* (encyclical letter on the Eucharist and its relationship to the Church), Vatican City 2003, no. 34.

[10] International Theological Commission, *Synodality in the Life and Mission of the Church*, Vatican City 2008, no. 54.

[11] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church,* no. 18.

Vatican Council. There are many ecclesiologists of the Latin Church who see the universal Church as a communion of particular Churches or dioceses directly dependent on the Pope. Although they sometimes use expressions such as local or individual Churches instead of particular Churches, they basically only mean dioceses. Until recently the official Roman ecclesiology has only admitted a two-tiered model of the Church: the dioceses (*Ecclesia particularis*) and, without any intermediate structure, the universal Church (*Ecclesia universalis*)[12].

The second group, consisting mainly of Eastern theologians, holds that the universal Church is a communion of individual Churches (*Ecclesiae sui iuris*) such as patriarchates and their equivalents, which in turn are the communion of particular Churches or dioceses[13]. Both ecclesiological models are briefly discussed with the aim of presenting primacy and collegiality in the context of the Catholic Church as communion of Churches.

1.1. Church as the Communion of Particular Churches or Dioceses

The basis of the ecclesiology of the Church as communion is the central event in the life of the visible Church, namely the Eucharistic celebration of the local Church, presided over by the bishop himself, surrounded by his presbyters, deacons and the Christian faithful. In the Eucharist, the communion comes to the full

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[12] Cf. G. Nedungatt, "Autonomy, Autocephaly and the Problem of Jurisdiction Today", in *Kanon* 5 (1981) 23; A. Anton, *Le conferenze episcopali: istanze intermedie*? *Lo stato teologico della questione*, 256-260; G. Ghirlanda, "Universal Church, Particular Church, and Local Church", 240-245.

[13] For example: J. Powathil, *Church as the Mystery of Communion: A Tribute to the Ecclesial Vision of Father Placid J. Podipara*, Bangalore 2014, 91-109; J. Kallarangatt, "Communion Ecclesiology in the Light of the Second Vatican Council", in X. Koodapuzha (ed.), *Communion of Churches*, Kottayam 1993, 80-91; *Windows to Heaven*, 139-160; M. Vellanickal, *Church: Communion of Individual Churches, Biblico-Theological Perspectives on the Communion Ecclesiology of Vatican II*, Mumbai 2009, 145-167; X. Koodapuzha, "Communion of Churches: Its Ecumenical Relevance in the Indian Context", in *Communion of Churches*, Kottayam 1993, 58-61.

realisation of itself[14]. Thus the local Church can be described as the assembly of Christian believers called by the Holy Spirit, which under the leadership of the bishop, priests and other ministers, proclaims the word, celebrates the Eucharist and other sacraments and makes the saving action of Christ present in the world[15].

The fundamental unit of the Church with all the necessary ecclesial elements are dioceses or eparchies and not parishes. Although the family and the parish are called "Church" in the Second Vatican Council[16], they are not considered "particular Churches" in relation to the universal Church. Only the diocese is referred to as a particular Church and is regarded as the fundamental ecclesial unit. According to the ancient tradition of the Church, the episcopal ministry is necessary for a perfect unit of the Church, and the parish as such lacks the immediate presence of the episcopal ministry and consequently the fullness of the sacramental ministry[17]. The importance of the episcopal ministry for a perfect unit of the Church is clear in the teaching of the Second Vatican Council: "In any community of the altar, under the sacred ministry of the bishop, there is made manifest the symbol of that charity and unity of the mystical body without which there can be no salvation"[18]. According to *Sacrosanctum Concilium*, the liturgical celebration presided over by the bishop, surrounded by the college of his priests and ministers and the Christian faithful is the most important manifestation of the Church[19]. This also emerges from the definition of the particular Church in *Christus Dominus*:

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[14] J.-M. R. Tillard, "The Church of God is a Communion", 118; cf. E. J. Kilmartin, *Toward Reunion*: *The Orthodox and Roman Catholic Churches*, New York 1979, 47.

[15] P. Granfield, "The Church Local and Universal: Realization of Communion", in *The Jurist* 49 (1989) 455.

[16] Cf. Vatican II, *Lumen gentium,* 11 and *Presbyterorum ordinis*, 6.

[17] Cf. G. Nedungatt, "Ecclesia universialis, particularis, singularis", in *Nuntia* 2 (1976) 79; E. Lanne, "L'Eglise locale et l'Eglise universelle", 490-491; cf. also K. Rahner – J. Ratzinger, *Episkopat und Primat*, 28; *The Episcopate and the Primacy*, 28-29.

[18] Vatican II, *Lumen gentium,* 26.

[19] Vatican II*, Sacrosanctum Concilium*, 41; cf. also *Lumen gentium*, 26.

> A diocese is a section of the people of God whose pastoral care is entrusted to a bishop in cooperation with his priests. Thus, in conjunction with their pastor and gathered by him into one flock in the Holy Spirit through the Gospel and the Eucharist, they constitute a particular Church. In this Church the one, holy, catholic and apostolic Church of Christ is truly present and at work[20].

Only a diocese forms a particular Church in which the Catholic Church is truly present. Other communities, such as the family and the parish, are not complete in themselves; they are linked to the diocese in the strict sense and are in communion with it.

According to Orthodox ecclesiology, too, the eparchy is the basic unit of the Church. The fundamental ecclesiological principle of the local Church in the Orthodox tradition is the identification of the Church with the Eucharistic community. Orthodox ecclesiology is based on the idea that wherever there is the Eucharist, there is also the Church in its fullness as the Body of Christ. The Eucharistic assembly presided over by the bishop is the Church in its fullness and possesses all the *notae ecclesiae*[21]. Although the parish is also a Eucharistic community, the Orthodox Churches generally hold that the reality of the local Church is guaranteed by the bishop and not by the presbyter; the local Church as an entity with full ecclesiological status is the episcopal diocese and not the parish. Parishes, families or other Christian groups are not Church in the "full" and Catholic sense. The full ecclesiological status of a local

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[20] Vatican II, *Christus Dominus*, 11; cf. CIC c. 368; CCEO c. 177 § 1. Besides this, *Lumen gentium*, 27; *Christus Dominus*, 3 and 36 speak of the relationship between bishop and particular Church.

[21] Cf. J. D. Zizioulas, *Being as Communion,* 247; A. Schmemann, "La notion de primauté", 129; N. Afanassieff, "L'Eglise qui préside dans l'amour", 25-31; J. Meyendorff, *Byzantine Theology,* 208-210; J. H. Erickson, "Common Comprehension of Christians concerning Autonomy and Central Power", 100-101; G. Tsetsis, *Orthodox Thought: Reports of Orthodox Consultations Organized by WCC 1975-1982*, Geneva 1983, 23-27. For a critical evalutation of orthodox ecclesiology: J. J. Holtzman, "Eucharistic Ecclesiology of Orthodox Theologians", in *Diakonia* 8 (1973) 67-88; B. Schultze, "Ecclesiologia universale o eucaristica", in *Unitas* (gennaio-marzo 1965) 14-33; "Der Primat Petri und seiner Nachfolger nach den Grundsätsen der universelle und der eucharistische Ekklesiologie", in *OCP* 31 (1965) 24-52.

Church requires the presence of a bishop, and therefore only a diocese is properly called a Church[22].

Since a diocese is considered as the fundamental ecclesial unit, most ecclesiologists of the Latin Church who favour the communion ecclesiology regard the universal Church as a communion of dioceses. The basis of this communion is the essential interior identity of all the particular Churches; it is a special relationship of "mutual interiority". Therefore, the universal Church cannot be understood as the sum of the particular Churches or as a confederation of particular Churches. According to *Lumen gentium* the universal Church grows out of the particular Churches:

> The individual bishops, however, are the visible principle and foundation of unity in their own particular Churches, formed in the likeness of the universal Church; in and from these particular Churches there exists the one unique catholic Church. For this reason individual bishops represent their own Church, while all of them together with the pope represent the whole Church in the bond of peace, love and unity[23].

The fact that the particular Churches are "formed in the likeness of the universal Church" cannot be interpreted platonically as if the particular Church were merely a reproduction of an "ideal Church". It can be said that the universal Church is fully manifested in the local Church in the sense that all the essential elements of the Church are also present in each particular Church. But a prior universal Church or a Church that supposedly exists in itself, independent of all particular Churches, seems to be a creation of the mind[24].

Joseph Ratzinger holds that the Church is primarily and immediately realized in the individual local Churches, which are not

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[22] Cf. J. D. Zizioulas, *Being as Communion*, 24-25 and 247-253; G. Tsetsis, *Orthodox Thought,* 24; A. Schmemann, "La notion de primauté" 128-130; "Ecclesiological Notes", in *SVTQR* 1 (1967) 38; J. H. Erickson, "Common Comprehension of Christians concerning Autonomy and Central Power", 101-102; N. Afanassieff, "Statio orbis", in *Irénikon* 35 (1961) 67.

[23] Vatican II*, Lumen gentium*, 23.

[24] Cf. H. De Lubac, *Les Eglises particulières dans l'Eglise universelle*, Paris 1971, 53-54.

separate parts of a large administrative organisation, but rather embody the totality of reality that is the Church. He explains:

> […] for the early Christians the word *ecclesia* meant first of all and most conspicuously the local Church. In other words, the Church is realized immediately and primarily in the individual local Churches which are not separate parts of a large administrative organization but rather embody the totality of the reality which is the "Church". The local Churches are not administrative units of a huge apparatus but living cells, each of which contains the whole living mystery of the one body of the Church: each one may rightly be called *ecclesia*. We may then conclude that the one Church of God consists of the individual Churches, each of which represents the whole Church[25].

When analysing the teaching of the Second Vatican Council on the Church as a communion, Walter Kasper affirms that the "Catholic Church exists in local Churches and consists of local Churches". According to him, the revival of the early Church's concept of the communion ecclesiology represents a turning point of the first order in the history of the theology of the Church. "For a return to the *communio* ecclesiology of the first ten centuries means departing from the one-sided 'unity' ecclesiology of the second millennium of the church, which was, and still is, one of the essential reasons for the separation of the Eastern churches from the Latin church of the West. The interpretation of Church's unity as a unity in communion again leaves room for a legitimate variety of local churches within the greater unity in the one faith, the same sacraments and the same ministries"[26]. Based on the teaching of the Council on particular Churches and individual Churches Walter Kasper again affirms:

> […] although the universal church certainly does not come into being through any subsequent union, addition and confederation of individual churches, yet the individual churches are, with equal certainty, never merely a subsequent administrative partition of the universal church into individual provinces and departments. The universal church and the individual church are mutually inclusive.

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[25] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality", 22; cf. *Il nuovo popolo di Dio*, 225-226.

[26] W. Kasper, *Theology and Church*, 157.

> They dwell within one another mutually. That is why it is part of the essential structure of the church to have two focusses, like the two focusses of an ellipse: *iure divino*, it is both papal and episcopal. Neither of the two poles can be traced back to the other. This unity in tension is the foundation of the union in communion. The communion which is both episcopal and papal is the essential organic expression of the essential structure of the church, its unity in catholicity, and its catholicity in unity[27].

Each particular Church is the Church of Christ present in one place and endowed with all the means of salvation, and each is fully Church because it possesses all the ecclesial elements such as the profession of the apostolic faith, the sacraments, the preaching of the Word and the presence of the Holy Trinity. There is no universal Church except in and through the self-realisation of the particular Churches. The universal Church appears and exists as particular Churches or the particular Church is the universal Church in a determined place. In each particular Church, the universal Church manifests or incarnates itself in all its reality. The particular Church is nothing other than the Catholic Church in a particular time and place[28].

The main difference between a particular Church and the universal Church is that the particular Church is fully Church, but it

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[27] W. Kasper, *Theology and Church*, 160.

[28] Cf. E. Lanne, "L'Eglise locale et l'Eglise universelle", 482- 511; J. Pinard, "L'Eglise locale come lieu de divinisation", in *Esprit et vie* 81 (1971) 385-394; J. J. Von Allmen, "L'Eglise locale parmi les autres Eglises locales", in *Irénikon* 43 (1970) 512-537; J. Komonchak, "The Church Universal as Communion of Local Churches", in *Concilium* 6 (1981) 32; P. Granfield, "The Church Local and Universal", 452-456; E. R. Hambye, "The Second Vatican Council and the Local Churches", in *Jeevadhara* 1 (1971) 301-304; R. Kress, "The Church as *Communio*", 144-151 and 156-157; J.-M. R. Tillard, "The Church of God is a Communion", 124-127; H. Legrand, " La réalisation de l'Eglise en un lieu", 151-171; "Nature de l'Eglise particulière et rôle de évêque dans l'Eglise", in *La charge pastorale des évêques* (*Unam Sanctam* 71), Paris 1969, 104-112; H. De Lubac, *Les Eglises particulières dans l'Eglise universelle*, 49-51. K. Rahner, "Quelques réflexions sur les principes constitutionnels de l'Eglise", in *L'Episcopat et l'Eglise universelle* (*Unam Sanctam* 39), Paris 1962, 552-557; K. Rahner – J. Ratzinger, *Episkopat und Primat*, 24-28; *The Episcopate and the Primacy*, 25-30; G. B. Mondin, *La Chiesa primizia del regno*: *trattato di ecclesiologia, corso di teologia sistematica*, vol 7, Bologna 1990, 406-416.

is not the whole Church. On the basis of Eucharistic ecclesiology, Karl Rahner argues that the "local Church is not an agency of the universal Church, subsequently founded […], but is the event itself of the universal Church". The local Church does not come into being through an "atomizing division of the world-territory of the universal Church, but by the concertation of the Church into its own nature as event"[29]. The International Theological Commission confirms: "The Church, insofar as she is Catholic, makes the universal local and the local universal. The particularity of the Church in one place is fulfilled at the heart of the universal Church and the universal Church is manifested and made real in the local Churches, and in their communion with each other and with the Church of Rome"[30].

Even the then Congregation for the Doctrine of the Faith concedes, albeit with caution: "The universal Church is therefore the *Body of the Churches*. Hence it is possible to apply the concept of communion *in analogous fashion* to the union existing among particular Churches, and to see the universal Church as a *Communion of Churches*"[31]. In short, according to the post conciliar Western ecclesiology, the universal Church can be considered as a communion of particular Churches or dioceses.

1.2. Universal Church as the Communion of Individual Churches like Patriarchates

A close examination of the documents of the Second Vatican Council, in particular *Lumen gentium, Orientalium Ecclesiarum and Unitatis redintegratio* which define the nature, structure and constitution of the Church, demonstrates the recognition of intermediate structures such as patriarchates, especially in relation

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[29] K. Rahner – J. Ratzinger, *Episkopat und Primat*, 28-30; *The Episcopate and the Primacy*, 26-27.

[30] International Theological Commission, *Synodality in the Life and Mission of the Church*, no. 59.

[31] Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion*, no. 8.

to the Eastern Churches[32]. *Lumen gentium* seems to recognize the intermediary communions as part of the constitution of the Church. While treating the catholicity of the Church *Lumen gentium* states: "Holding a rightful place in the communion of the Church there are also particular Churches that retain their own traditions, without prejudice to the chair of Peter which presides over the whole assembly of charity, and protects their legitimate variety while at the same time taking care that these differences do not hinder unity, but rather contribute to it"[33]. Again it explicitly affirms:

> It has come out through divine providence that, in course of time, different Churches set up in various places by the apostles and their successors joined together in a multiplicity of organically united groups which, whilst safeguarding the unity of the faith and the unique divine structure of the universal Church, have their own discipline, enjoy their own liturgical usage and inherit a theological and spiritual patrimony. Some of these, notably the ancient patriarchal Churches, as mothers in faith, gave birth to their daughter-Churches, as it were, and down to our own days they are linked with these by bonds of a more intimate charity in what pertains to the sacramental life and in a mutual respect for rights and obligations[34].

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[32] In the documents of Vatican II the expression 'particular Church' is used to refer both to dioceses (cf. *LG* 13, 23a, 27, 45; *CD* 11, 23, 28; *AG* 6, etc.) and to the intermediate level of ecclesial communions like the patriarchal Churches (cf. *LG* 23; *OE* 2-4, 16, 17, 19; UR 14). In order to avoid confusion, during the process of codification of the Codes of Canon Law the *Coetus mixtus de lege ecclesiae fundamentali*, composed of the members of the pontifical commissions of the Latin and Eastern codes, decided to apply 'particular Church' exclusively to dioceses, and to adopt the expression 'ritual Church *sui iuris*' to denote the Eastern Churches [cf. *Communicationes* 8 (1976) 81-82; 9 (1977) 274 & 297-299; *Nuntia* 22 (1986) 23]. In accord with this decision in both Codes of canon law the designation 'particular Church' is reserved exclusively to dioceses or eparchies (see CIC c. 368 and CCEO c. 177). In the Latin Code 'ritual Church *sui iuris*' is used for intermediate communions like the patriarchal and major archiepiscopal Churches (see CIC cc. 111 & 112). The pontifical commission for the Eastern Code, however, dropped the word 'ritual', and retained only 'Church *sui iuris'*, because the word 'ritual' was considered superfluous and counterproductive in referring to Churches *sui iuris*, especially since there are different Churches *sui iuris* belonging fundamentally to the same basic ritual tradition.

[33] Vatican II, *Lumen gentium*, 13.

[34] Vatican II, *Lumen gentium*, 23. This translation is taken from *Vatican Council II: The Conciliar and Post Conciliar Documents*, A. Flannery (ed.),

The organically united groups of Churches with their own liturgical, theological, spiritual and disciplinary patrimony of which the Council speaks, are not dioceses, but the intermediary structures such as the ancient patriarchal Churches[35]. The Council also recognises that these institutions developed according to divine providence. The Western or Latin Church, despite the existence of semi-intermediate structures such as episcopal conferences, is still seen as equivalent to a single patriarchal or individual Church, extending throughout the world and possessing its own liturgical, theological, spiritual and disciplinary heritage, contextualised by the different cultures and historical circumstances in each nation. However, in a commentary on the quoted statement from *Lumen gentium* about the origin of the patriarchal Churches by divine providence, Karl Rahner explains:

> […] the first sentence of the section involves an important principle, since the historical findings are regarded as marking a special divine providence. It affects particularly the Latin or Western branch of the Catholic Church because this has in fact been practically identified with the Church as a whole. Major Churches with their own discipline, their own liturgy, and their own spiritual and theological heritage could also be formed in the future, 'by divine providence', say in Africa, Asia or South America"[36].

Bombay 1975, 402. Although the Latin original uses the expression: "*particolres ecclesias seu ritus constituunt*", Tanner translated it as: "make up various churches or rites". See *Decrees of the Ecumenical Councils*, vol. 2, 902. The Vatican English translation reads: "form separate Churches or Rites". www.vatican.va, Testi fondamentali.

[35] Cf. B. P. Prusak, *The Canonical Concept of Particular Church before and after Vatican II,* Rome 1967, 97-99; J. D. Faris, *The Communion of Catholic Churches*: *Terminology and Ecclesiology,* Brooklyn-New York 1985, 34-38; G. Philips, *L'Eglise et son mystère au IIe concile du Vatican*, vol. 1, 313-314; A. Anton, "The Theological Status of Episcopal Conferences", 194-199; K. Mörsdorf, "L'autonomia della Chiesa locale", 183-184; W. De Vries, "Die Patriarchate des Ostens: Bestimmende Faktoren bei ihrer Entstehung", 33; M. Brogi, "Strutture delle Chiese orientali sui iuris secondo il C.C.E.O"., in *Apollinaris* 65 (1992) 301-302; "Le Chiese sui iuris nel Codex Canonum Ecclesiarum Orientalium", in *Revista Española de Derecho Canònico* 48 (1991) 518-519.

[36] K. Rahner, "The Hierarchical Structure of the Church with Special Reference to Episcopate", 207.

The existence of intermediate structures is more evident in the *Decree on the Eastern Catholic Churches*, which states: "The holy Catholic Church, which is the mystical body of Christ, is made up of the faithful who are organically united in the Holy Spirit by the same faith, the same sacraments and the same government. They combine into different groups, which are held together by their hierarchy and so form particular Churches or rites […]"[37]. Obviously, the Council uses the expression "particular Churches" here to refer to the patriarchal Churches and their equivalents which are also called "rites" at that time. The text, in which the statement of *Lumen gentium* resonates, testifies to the theologically founded structure of the Church as a communion of individual Churches.

From the same Decree it is clear that individual or particular Church is a common term applicable to both Latin and Eastern Churches:

> These individual Churches (original: *particulares ecclesiae*), whether of the East or the West, although they differ somewhat among themselves in rite (to use the current phrase), that is, in liturgy, ecclesiastical discipline, and spiritual heritage, are, nevertheless, each as much as the others (original: *aequali tamen modo*), entrusted to the pastoral government (*pastorali gubernio*) of the Roman Pontiff, the divinely appointed successor of St. Peter in primacy over the universal Church. They are consequently of equal dignity, so that none of them is superior to the others as regards rite and they enjoy the same rights and are under the same obligations, also in respect of preaching the Gospel to the whole world (cf. *Mark* 16, 15) under the guidance of the Roman Pontiff"[38].

The text affirms the fundamental equality of the individual Churches, both of the West and of the East in dignity, rights and obligations "also in respect of preaching the Gospel to the whole world". The formulation that the Roman Pontiff is equally entrusted with pastoral government is to be understood in the light of the common tradition of the first millennium, in which the Bishop of

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[37] Vatican II, *Orientalium Ecclesiarum*, 2.

[38] Vatican II, *Orientalium Ecclesiarum*, 3. For an analysis: M. Brogi, "Le Chiese sui iuris", 519-522; "Strutture delle Chiese orientali", 302-304; G. Nedungatt, "Ecclesia universalis, particularis, singularis", 76; J. D. Faris, *The Communion of Catholic Churches,* 38-50.

Rome exercised only primatial power in the Eastern patriarchates, while in his own Western Patriarchate he exercised both patriarchal and primatial power[39]. At that time there was no need for the Pope to exercise patriarchal power in the East, since powerful Eastern patriarchs accomplished patriarchal function in their territories. In this context, the statement by Johannes Maria Hoeck is significant:

> This equality naturally applies also in relation to the Pope as such. However, according to Eastern ecclesiology it is questionable whether one should call this competence of the Pope in relation to the individual Churches *gubernium* for, according to the concept prevalent in the universal Church, that is, in the Church before the Schism, the Pope as Pope is not *gubernium*, but defender and guarantor of unity and of the *bonum commune* of the Church, its *summus judex* and arbiter, who intervenes only where, and to the extent that, the unity and purity of the faith make it appear to be necessary. His competence as Patriarch of the Latin Church is, of course, far more extensive. This concept of the primacy has, to be sure, largely been lost in the West, and it is well known that this is the main obstacle to a reunion of the Churches[40].

Under the supreme authority of the Church, each individual Church of the Catholic communion has the power to govern itself, with legislative, judicial, electoral and administrative functions. Having spoken of the heritage of the Eastern Churches as part of the patrimony of the universal Church, the Second Vatican Council declares:

> Therefore the Churches of the East like those of the West have the right and duty to govern themselves according to their own special disciplines. For these are guaranteed by ancient tradition and seem to be better suited to the customs of their faithful and to the good of their souls[41].

The Council then solemnly affirms the principle of the disciplinary autonomy of the patriarchal Churches. In fact, each individual Church is governed by its own highest authority:

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[39] For details and documentation, see Chapter Two.

[40] J. M. Hoeck, "Decree on Eastern Catholic Churches", in H. Vorgrimler (ed.), *Commentary on the Documents of Vatican II*, vol. 1, New York 1967, 315.

[41] Vatican II, *Orientalium Ecclesiarum*, 5; cf. *Unitatis redintegratio*, 16.

> The patriarchs with their synods are the highest authority for all business of the patriarchate, not exceeding the right of setting up new eparchies and appointing bishops of their rite within the patriarchal territory, without prejudice to the inalienable right of the Roman Pontiff to intervene in any particular case[42].

Therefore, a patriarchal Church is not dependent on any other church for its hierarchical constitution, its order and its discipline, regardless of its size or historical origin. Each Church can decide its own destiny under the guidance of the Roman Pontiff[43]. However, he has the "inalienable right" to intervene and can intervene whenever it serves the good of the Church, in particular to safeguard faith and morals as well as proper liturgical order and canonical discipline.

The *Decree on Ecumenism* even recognizes the non-Catholic Eastern Churches as particular Churches and considers them as intermediate ecclesial communions: "The Council gladly reminds everyone of the highly significant fact among others: in the East there flourish many particular local Churches; among them the patriarchal Churches hold first place, and of them many glory in taking their origins from the apostles themselves"[44].

When we synthesize the formulations of *Lumen gentium, Orientalium Ecclesiarum* and *Unitatis redintegratio* it becomes clear that the intermediate communions such as the patriarchal Churches and their juridical equivalents are included in the constitution of the Church. There are thus three levels of communion: the diocesan Church (*Ecclesia particularis*), the individual Church (*Ecclesia individualis or sui iuris*) and the universal Church (*Ecclesia universalis)*. The diocese is the communion of parishes, the individual Church or intermediate communions such as the patriarchates and their equivalents are the

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[42] Vatican II, *Orientalium Ecclesiarum*, 9.

[43] Cf. N. Edelby, "L'authentique tradition orientale de le décret Vatican II sur les Eglises orientales catholiques", in *Kanon* 1 (1973) 65-66; G. D. Gallaro, "*Orientalium Ecclesiarum* Deserves More Attention", in *Nicolaus* 2 (1986) 299.

[44] Vatican II, *Unitatis redintegratio*, 14; for an explanation about the statement of Vatican II: J. Feiner, "Decree on Ecumenism", in H. Vorgrimler (ed.), *Commentary on the Documents of Vatican II,* vol. II, New York 1968, 129-132.

communion of dioceses or eparchies, and the universal Church is the communion of both.

Although official Roman ecclesiology is reluctant to recognise the theological basis of bishops' conferences and in particular their intermediary status, there are theologians who acknowledge the intermediary character of conferences in the Latin Church as well. Karl Rahner, who distinguishes between purely human ecclesiastical law and divine law concretised in history, affirms the possibility of intermediary structures in the Latin Church:

> Rightly understood, one can say without any scruples that the real, fundamental-theological essence of the patriarchate belongs to the *ius divinum*[45] in the Church, because the collegiality of the bishops gives rise to the conclusion that they must realise a concrete and particular unity with one another at that time and in that place where a large part-Church embracing several dioceses grows up in the spheres of history, ecclesiastical tradition, sociology, and so on, or where such a unity already precedes the division into dioceses. Whether such a greater Church is called a patriarchate, a metropolitan union, or anything else, is a question of secondary importance. This is especially so because the dividing line between the duties and rights of a 'patriarch' on the one hand and those of the individual local bishops on the other have been fluid and can vary according to time and place. Where energetic and effective national conferences of bishops exist or are in process of formation, a 'patriarchate' is already materially there, provided that there also corresponds to the national (or continental) unity of such a union of bishops a greater Church, which has historically, liturgically (or para-liturgically), theologically and so on, its own proper character which enables it to fulfil a function proper to it within the whole Church […][46].

James H. Provost is of the opinion that "episcopal conferences have become practically equivalent to patriarchs with their synods in church law since the council", although the conferences are more restricted in their powers. "Moreover, many elements which

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[45] Although we realise at the same time that this *ius divinum* must become concrete in determinate historical forms and will therefore rightly become concrete *differently* in different times and places (footnote as in the original).

[46] K. Rahner, "The Episcopal Office", in *Theological Investigations*, vol. 6, Baltimore 1961, 355-356.

characterize a particular church are now characteristic within these conferences or groups of conferences. Discipline is being adapted even to the extent of juridical procedures. Liturgical usage is now modified to the language and customs of the people. Certain theological and spiritual insights characteristic of various cultures can now be discerned. In short, those elements which characterize a particular church are now discernible in the ambience of episcopal conferences"[47].

In the Apostolic Constitution *Praedicate Evangelium* on the Roman Curia and its service to the Church in the world Pope Francis highlighted the role of Episcopal Conferences in the communion of Churches:

> It must be emphasized that, by God's providence, over the course of time various Churches were founded in different places by the Apostles and by their successors, and have come together in diverse groupings, chiefly the ancient patriarchal Churches. The emergence of Episcopal Conferences in the Latin Church represents one of the more recent forms in which the *communio Episcoporum* has found expression in service to the *communio Ecclesiae* grounded in the *communio fidelium*. Consequently, while fully respecting the proper power of each Bishop as pastor of the particular Church entrusted to him, Episcopal Conferences, including their regional and continental groupings, together with the relative hierarchical structures of the Eastern Churches, are presently one of the most significant means for expressing and preserving ecclesial communion in different places, together with the Roman Pontiff as guarantor of unity of faith and of communion[48].

For the first time in 2024, an official text of the Catholic Church, namely *Final Document* of the XVI Ordinary General Assembly of the Synod of Bishops explicitly recognized groupings

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[47] J. H. Provost, "Structuring the Church as *Communio*", in *The Jurist* 36 (1976) 237; for the same idea about the bishop's conference as an intermediary structure: B. P. Prusak, *The Canonical Concept of Particular Church before and after Vatican II*, 110; A. Anton, *Le conferenze episcopali: istanze intermedie*? *Lo stato teologico della questione,* 249-267; "The Theological Status of Episcopal Conferences", 79-87; G. Philips, *l'Eglise et son mystère au IIe concile du Vatican*, vol. 1, 315-316.

[48] Francis, *Praedicate Evangelium* (apostolic constitution of 19 March 2022), Vatican City 2022, nos. I-7.

of local Churches and especially Churches *sui iuris* as belonging to the structure of the Catholic communion. The document speaks of the exchange of gifts and the fulfilment of the Church's mission by taking up and encouraging "the riches, resources and customs of peoples in so far as they are good" (*LG* 13) and states the reason for such an approach:

> It does so because it is both established in Christ as the People of God from all the peoples of the earth and is structured dynamically in a communion of local Churches, of their groupings, and of the Churches *sui iuris* within the one Catholic Church[49].

Moreover, the Final Document appreciates the role of Bishops' conferences in the communion of Churches: "Episcopal Conferences express and implement the collegiality of the Bishops in order to foster communion between Churches and respond more effectively to the needs of pastoral life. They are a fundamental tool for creating bonds, sharing experiences and best practices among the Churches, and for adapting Christian life and the expression of faith to different cultures. With the involvement of the whole People of God, they also play an important role in the development of synodality"[50]

2. Episcopal Collegiality as an Expression of the Catholic Church as Communion of Churches

Many theologians who favour the communion ecclesiology also explain episcopal collegiality in accordance with the undivided common tradition of the Church as an expression of the communion of particular Churches. The bishops participate in a synod as heads of particular Churches and represent them[51]. While speaking about

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[49] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church,* no. 120.

[50] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church,* no. 125.

[51] Cf. H. Legrand, "Nature de l'Eglise particuliére et rôle de évêque dans l'Eglise", 114; "La réalisation de l'Eglise en un lieu", 306-309; G. Alberigo, *L'ecclesiologia del Vaticano II*: *dinamismi e prospettive*, 250-251; D. Valentini, "An Overview of Theologians' Positions", 33-35.

the ministry and representation, Jean-Marie Roger Tillard affirms: "Between the bishop and the local Church there exists a dynamism of mutual inclusion which means that in the voice of the bishops is heard that of the entire local Church"[52]. According to Cardinal Yves Congar, the headship of a particular Church and membership in the college are the two simultaneous effects of the same episcopal consecration which are not distinct but distinguishable. By the very act of episcopal consecration for a particular Church a bishop becomes a member of the college and bishop of the universal Church, since the particular Church is a manifestation of the whole Church and it is the Church of God in a determined place[53]. The communion of bishops, which is expressed at a council, has its basis in the communion of the Churches and their faithful. The bishops are representatives of their Churches at the council, not in the manner of delegates, but in the ancient sense of the representation or personification of a body by its head[54].

All bishops are in communion with other bishops: for a bishop is a bishop only if he is in communion with other bishops, without which he cannot exercise his episcopal office[55]. Therefore, collegiality is an aspect of the juridical structure of the Church that results from the communion of the particular or individual Churches and the harmonious plurality of the bishops representing them[56]. Joseph Ratzinger affirms:

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[52] J.-M. R. Tillard, *Eglise d'Eglises*: *l'ecclésiologie de communion*, 245; *Church of Churches*: *the Ecclesiology of Communion*, 192.

[53] For a detailed discussion: Y. Congar, *Ministères et communion ecclésiale*, 123-140; cf. also D. Valentini, "An Overview of Theologians Positions", 36-38.

[54] Cf. Y. Congar, "The Conciliar Structure or Regime of the Church", in *Concilium* 7 (1983) 4-5; "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 230-233; *Ministères et communion ecclésiale*, 98-99; cf. also H. Legrand, "Lo svilupo di Chiese-sogetto: un'instanza del Vaticano II", in G. Alberigo (ed.), *L'ecclesiologia del Vaticano II: dinamismi e prospettive*, 146; J.-M. R. Tillard, *Eglise d'Eglises*: *l'ecclésiologie de communion*, 243-251; *Church of Churches: the Ecclesiology of Communion*, 190-197.

[55] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality, 22-23; *Il nuovo popolo di Dio*, 227.

[56] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality", 23-24; *Il nuovo popolo di Dio*, 226-227.

> […] collegiality of the bishops fulfills its meaning only if the individual bishop really and faithfully represents his individual Church and thus through him, a part of the Church's plenitude is inserted into the totality of the Church's unity. Thus it will be an important obligation to ensure that the increased importance of the episcopal office does not result in making individual bishops little popes, as it were, by increasing and strengthening their monarchical powers; rather they must be placed more clearly in the multiple relationship with their brethren with whom they govern the Church of God[57].

The individual Church is indeed a "closed totality that embraces the full essence of the Church of God, but it is at that same time open in all directions through the bond of communion"[58]. Recently, Pope Francis has confirmed with regard to the Roman Synod that the bishops represent their own Churches: "The Bishops assembled in Synod represent in the first place their own Churches, but they are also attentive to the contributions of the Episcopal Conferences which selected them and whose views about questions under discussion they then communicate. They thus express the recommendation of the entire hierarchical body of the Church and finally, in a certain sense, the whole Christian people, whose pastors they are"[59].

Therefore, bishops participate in synods and councils not as private individuals but as heads of particular Churches, bringing the faith and aspirations of their Christian community to the synod. In this sense, a patriarchal synod turns out to be a crystallization of the faith and ecclesial heritage of an individual Church and an ecumenical council becomes a concentration of the entire Church and its faith. In fact, the college of bishops is the concentrated form

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[57] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality", 27; *Il nuovo popolo di Dio*, 236.

[58] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality", 23; *Il nuovo popolo di Dio*, 226.

[59] Francis, *Episcopalis communio* (apostolic constitution), Vatican City 2018, no. 6.

of the *communio fidelium* and the official magisterium is an authentic expression of the faith of the *communio fidelium*[60].

The idea of the collegiality of the bishops as an expression of the communion of local particular Churches is consistent with the genuine Eastern and Orthodox traditions. In fact, the Eastern tradition arrives at the notion of a college of bishops, based on the ecclesiology of communion among local particular Churches. The reciprocal relationship between the bishop and his Church is evident in the early tradition[61]. The bishop and the Church are even identified by Fathers like Cyprian who said: "the bishop is in the Church and the Church is in the bishop"[62]. A bishop is ordained for a particular Church or eparchy in order to exercise his sacramental, teaching and pastoral functions. The bishop is not a member of a council or synod in himself but as the head of a community[63]. Since the Church is a communion of local Churches, the bishops also form a college. As the bishop is identified with the eparchy or diocese over which he presides, he represents his Church in a synod, which is the manifestation of the communion of different local Churches. In his contribution on the synodal structure of the Eastern Churches, Cardinal Duprey emphasises:

> As a bishop, his role is to keep his Church open to the Catholic communion, and the Catholic communion open to his Church. He is to be a member of the college for his Church and from within his Church. He is to live the reality which is signified in his being ordained by several bishops. The bishops form a college because the

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[60] Cf. J. C. Groot, "Aspetti orizzontali della collegialità", in G. Barauna (ed.), *La Chiesa del Vaticano II*, Firenze 1965, 779-784.

[61] Cf. *The Didascalia Apostolorum in Syriac* I, chapter IX, A. Vööbus (trans.), *Corpus Scriptorum Christianorum Orientalium* 402 (*Scriptores Syri* 176), Louvain 1979, 99-100.

[62] "[...] Unde scire debes episcopum in Ecclesia esse et Ecclesiam in episcopo, et si quis cum episcopo non sit, in Ecclesia non esse [...]". St Cyprian, Epistle LXIX, 8; *PL* 4, col. 406.

[63] Cf. J. Meyendorff, *Orthodoxie et catholicité*, 147; N. Afanassieff, "Réflexions d'un orthodoxe sur la collégialité des évêques", in *Le Messanger Orthodoxe* 29-30 (1965) 7-15; J. D. Zizioulas, *Being as Communion*, 241; H. Marot, "Notes et documents", in *Irénikon* 38 (1965) 246. Therefore, according to Orthodox tradition only the diocesan bishops are allowed to vote in a synod.

> Church is a communion. Everyone represents his Church and brings it into the communion just as each one represents the Catholic communion and brings it into his Church[64].

In brief, although a bishop is not elected by the people and is not a representative of the people in the political sense, he does not take part in synods and councils as a private person to spearhead his personal views and ideological positions, but as the head of the people of God in a particular Church in order to bring the lived faith and ecclesial experience of his community to the individual and universal Churches for mutual enrichment and strengthening. According to the ecclesiology of communion, the Catholic Church is a communion of particular or individual Churches and therefore the bishops who preside over these Churches also form a college or synod.

3. Primacy of the Bishop of Rome as the Guarantee of Communion and Unity of Faith in the Catholic Church

Since the Second Vatican Council restored the ecclesiology of the communion of Churches as in the patristic period and in general throughout the first millennium, the primacy of the Pope can also be seen as the supreme ministry for ensuring the unity of the Churches and their faith, as the first bishop among the other bishops. The Second Vatican Council identified the ministry of the Bishop of Rome in the first millennium, when the Catholic Church was considered as a communion of the Churches of the East and the West:

> For many centuries the Church of the East and that of the West each followed their separate ways though linked in a brotherly union of faith and sacramental life; the Roman See by common consent acted as guide when disagreements arose between them over matters of faith or discipline[65].

The function of the Bishop of Rome in the patristic age and in the first millennium, when the Church was considered essentially as

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[64] P. Duprey, "The Synodical Structure of the Church in Eastern Theology", 173.

[65] Vatican II, *Unitatis redintegratio,* no. 14.

a communion, was to be the touchstone and the ultimate criterion for the universal or Catholic communion of the Church.

3.1. Opinion of Theologians: A Ministry of Communion and Unity

Since the Second Vatican Council reintroduced the ecclesiology of communion, some theologians have endeavoured to define the role of the Bishop of Rome in the communion of churches in comparison with his office in the first millennium. With reference to that period, Ludwig Hertling affirms:

> The basic function of the pope was not the performance of given official actions, but simply being present as the fundamental point of orientation and unity in the network of communion between the several Churches [...]. His essential office is bishop of Rome, the primatial diocese of the Catholic world. As bishop of Rome, the pope is in the episcopal college holding the first place among all the bishops[66].

Cardinal Yves Congar highlights that the role of the Pope in the network of communions is to be the indispensable guarantor of ecclesial communion and the unity of faith. Referring to the role of the Bishop of Rome in the first millennium, he affirms:

> The Bishop of Rome was first among the bishops; his role in a public law of communion was to authoritatively protect unity by judging cases that challenged it, according to tradition and the canons that governed the life of the Churches. In this sense, one could speak of a "power in" the Church, as opposed to a "power over" the Church[67].

Since the Second Vatican Council re-established the ecclesiology of communion, the role of the Bishop of Rome has also

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[66] L. Hertling, *Communio: Church and Papacy in Early Christianity,* 10-11.

[67] "L'évêque de Rome était le premier des évêques; son rôle, dans un droit public de communion, était de garder supérieurement l'unité, en jugeant des cas qui la mettaient en cause, selon la tradition et les canons qui régelaient la vie des Églises. On pourrait, en ce sens, parler de "pouvoir dans" l'Eglise, par distinction d'avec un "pouvoir sur" l'Eglise". Y. Congar, "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 234-235. Cf. *Ministères et communion ecclesiale*, 98-99; "La Chiesa è apostolica", 706.

been reinterpreted as a ministry of unity and communion as the first bishop among other bishops. Cardinal Congar affirms:

> The central power, the Roman See, without being the source that it claimed to be, has the mission, and therefore the charism and the power to moderate the communion of the Churches, ensuring the preservation of Tradition and the Confession of Faith, organising the ecumenical life of the Churches, judging disputes, promoting the spread of the mission, etc.[68].

This view is also shared by many other authors who see the Bishop of Rome as the guardian of Christian tradition par excellence, the supreme judge of the faith and the link of the unity and communion of the Churches[69].

According to Jean-Marie Roger Tillard, the papacy is based on no other sacrament than the episcopal consecration of the one who, by virtue of his election as Bishop of Rome, is entrusted with a special episcopal responsibility within the college of his brother bishops. It is a special way of exercising the common sacrament of the episcopate:

> The function of the Bishop of Rome is none other than a very special form of this *sollicitudo omnium Ecclesiarum* given with the episcopal grace, hence a particular form of exercising the common sacrament of the episcopate. It is a service within the all-

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[68] "Le pouvoir central, celui du Siège Romain, sans être la source qu'il a prétendu être, a la mission, et donc le charisme et le pouvoir, de modérer la communion des Eglises, en veillant au maintien de la Tradition et à la Confession de Foi, en organisant la vie œcuménique des églises, en jugeant les cas conflictuels, en favorisant l'exercice de la mission, etc.". Y. Congar, "Autonomie et pouvoir central", 137.

[69] P. P. Joannou, "Pape, concile et patriarches", 526 and 520-540; E. Lanne, "L'Eglise locale et l'Eglise universelle", 498; "Il Servizio di communione tra le Chiese cattoliche romane", 128-129; G. Greshake, "Die Stellung des Protos", 25; G. Alberigo, "Per un papato rinnovato a servizio della Chiesa", 24 & 28-38; W. Kasper, "Ciò che permane e ciò che muta nel ministero petrino", 57-58; J. J. Von Allmen, "Ministero papale ministero di unità", 138; P. Batiffol, *Cathedra Petri*, 28; G. Dejaive, "Peut-on concilier le collège épiscopal et primauté?", 295-300; V. Peri, "La synergie entre le pape et le concile œcuménique", 180-181; G. Thils, "Papauté et épiscopat, harmonie et complémentarité", 55-63; J.-M. R. Tillard, *Eglise d'Eglises: l'ecclésiologie de communion,* 324 et 328; *L'évêque de Rome*, 203-235; "Presence of Peter in the Ministry of the Bishop of Rome", 101-105.

> encompassing mission of the episcopal college, the function of the 'servant of the servants of God'[70], according to the ideal which Gregory the Great put forth and which is expressed in the title of every conciliar document of Vatican II[71]. It does not support this mode of a sacramental hierarchy which would make him a 'super-bishop'[72].

The primatial function of the Bishop of Rome is a service in the global mission of the episcopal college, the function of "servant of the servants of God". The primatial see is not a see that extends territorially over the whole world, so that the territory of other sees is considered only as its subdivisions. It is the see of one local Church among others. But because of the double apostolicity and the double martyrdom of Peter and Paul, Rome has the privilege of being an outstanding witness to the apostolic faith and tradition and therefore of acting as the arbiter and centre of communion. Therefore, the local Church of Rome renders the Church a permanent and visible source and foundation of unity, both of faith and of communion[73]. Joseph Ratzinger explains the real significance of the primacy of the Pope in the light of the ecclesiology of communion as follows:

> The primacy cannot be patterned on the model of an absolute monarchy as if the pope were the unrestricted monarch of a centrally constituted, supernatural state called Church; but it means that within the network of the Churches communicating and thus forming the Church of God there is one official point, the *Sedes Romana*, by

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[70] On the formula, see H. Leclercq, *DACL* 15, 1950, 1360-1363 (footnote as in the original text).

[71] "Paul, bishop, servant of the servants of God, in union with the Fathers of the Holy Council, so that the memory may be maintained forever" (footnote as in the original text).

[72] J.-M. R. Tillard, *Church of Churches*: *the Ecclesiology of Communion*, 260.

[73] J.-M.R. Tillard, "The Church of God is a Communion", 127; *Eglise d'Eglises*: *l'ecclésiologie de communion*, 324 & 328; *L'évêque de Rome*, 203-235; "The Presence of Peter", 101-105. For the same idea H. Legrand, "Ministero romano e ministero universale del papa: il problema della sua elezione", in *Concilium* 8 (1975) 65-74; J. J. Von Allmen, "Ministero papale ministero di unità", 134-135; C. Vogel, "Unité de l'Eglise et pluralité des formes historiques d'organisation", 624.

> which the unity of faith and communion must be oriented. […] the primacy of the bishop of Rome in its original meaning is not opposed to the collegial character of the Church but is a primacy of communion in the midst of the Church living as community and understanding itself as such. It means, we repeat, the faculty and the right to decide authoritatively, within the network of communication, where the word of the Lord is witnessed correctly, and consequently, where there is true communion. It presupposes the *communio ecclesiarum* and can be understood correctly only in reference to it[74].

The Bishop of Rome, as the guarantor of faith and unity, has the right and duty to intervene in the internal life of other Churches and the universal Church in order to protect the integrity of the faith and the unity of the Catholic Communion[75]. Church history attests that even in the first millennium the Bishop of Rome intervened in the affairs of other Churches when appeals were made to him and in cases of serious canonical and liturgical disorders in order to restore peace, unity and harmony in the Church[76]. In short, the Pope is the defender and guarantor of faith and unity as well as the *bonum commune* of the Church, its *summus iudex* and arbiter, the indispensable prerequisite for the ecumenicity of the councils and the authenticity of their doctrinal decisions. As guarantor of the true faith and of Catholic communion, the Bishop of Rome intervenes in the affairs of other Churches, especially in the Eastern patriarchates only when this is necessary to protect the true faith and morals or to restore peace and harmony in the case of grave canonical or liturgical disorders and indiscipline, or to make his decision when an appeal is made to Rome.

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[74] J. Ratzinger, "The Pastoral Implications of Episcopal Collegiality", 25; cf. also *Il nuovo popolo di Dio*, 231-233.

[75] Cf. Y. Congar, "De la communion des Eglises à une ecclésiologie de l'Eglise universelle", 234; "Le pape come patriarche d'occident", 379; V. Parlato, *L'ufficio patriarcale nelle Chiese orientali*, 44-51; J.-M. R. Tillard, *L'évêque de Rome*, 207-235.

[76] For details and documentation, see Chapter Two.

3. 2. Official Teaching: A Service of Communion

The position of several theologians during and after the Second Vatican Council concerning the office of the Bishop of Rome as a ministry of communion and unity is finally confirmed by different Popes. In the encyclical on the Church *Ecclesiam suam* (6 August 1964), after emphasising the necessity of the Petrine ministry for the preservation of the unity of the Catholic Church, Pope Paul VI already presented Petrine ministry as a service:

> We would add that this cardinal principle of holy Church is not a supremacy of spiritual pride and a desire to dominate mankind, but a primacy of service, ministration, and love. It is no vapid rhetoric which confers on Christ's vicar the title: "Servant of the servants of God"[77].

In the Apostolic Constitution *Pastor Bonus* on the reform of the Roman Curia, which was promulgated on 28 June 1988, Pope John Paul II emphasized that in the Church, the people of God, the task of its shepherds or pastors is indeed to be that service "which is called very expressively in Sacred Scripture a *diaconia* or ministry". "The main thrust of this service or *diaconia* is for *more and more communion or fellowship to be generated* in the whole body of the Church, and for this communion to thrive and produce good results"[78]. Then regrading his own power and that of bishops the Pope affirms:

> The power and authority of the bishops bears the mark of *diaconia or stewardship*, fitting the example of Jesus Christ himself who "came not to be served, but to serve and to give his life as a ransom for many" (*Mk* 10: 45). Therefore the power that is found in the Church is to be understood as the power of being a servant and is to be exercised in that way; before anything else it is the authority of a shepherd.
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> This applies to each and every bishop in his own particular Church; but all the more does it apply to the bishop of Rome, whose Petrine

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[77] Paul VI, *Ecclesiam suam* (encyclical), Vatican City 1964, no. 110, in *AAS* 56 (1964) 656.

[78] John Paul II, *Pastor Bonus* (apostolic constitution), Vatican City 1988, no. 1; in *AAS* 80 (1988) 841.

> ministry works for the good and benefit of the universal Church. The Roman Church has charge over the "whole body of charity" and so it is the servant of love. It is largely from this principle that those great words of old have come – "The servant of the servants of God" – , by which Peter's successor is known and defined[79].

In the Encyclical Letter *Ut unum sint* Pope John Paul II again presents the ministry of the Bishop of Rome, who is the Bishop of the Church that preserves the mark of the martyrdom of St Peter and St Paul, as that of *servus servorum Dei* to ensure the unity of the faith and the communion of Churches[80]. He insists that the Petrine service of unity is that of a bishop among other bishops and within the college of bishops:

> This service of unity, rooted in the action of divine mercy, is entrusted within the College of Bishops to one among those who have received from the Spirit the task, not of exercising power over the people–as the rulers of the Gentiles and their great men do (cf. *Mt* 20:25; *Mk* 10:42)–but of leading them towards peaceful pastures […]. The mission of the Bishop of Rome within the College of all the Pastors consists precisely in "keeping watch" (*episkopein*), like a sentinel, so that, through the efforts of the Pastors, the true voice of Christ the Shepherd may be heard in all the particular Churches. In this way, in each of the particular Churches entrusted to those Pastors, the *una, sancta, catholica et apostolica Ecclesia* is made present. All the Churches are in full and visible communion, because all the Pastors are in communion with Peter and therefore united in Christ[81].

For the unity of all the Churches and ecclesial communities he also expressed his willingness "to find a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation" and to seek "the forms in which this ministry may accomplish a service of love recognized by all concerned"[82].

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[79] Pope John Paul II, *Pastor Bonus*, no. 2; *AAS* 80 (1988) 843.

[80] John Paul II, *Ut unum sint* (encyclical letter of 25 May 1995), Vatican City 1995, nos. 88-90.

[81] John Paul II, *Ut unum sint*, no. 94.

[82] John Paul II, *Ut unum sint*, no. 95.

Pope Francis humbly recognises that he is one of the baptised and "a bishop among bishops". In his address on 17 October 2015 (Saturday), on the 50th anniversary of the establishment of the Roman Synod of Bishops, Pope Francis affirmed:

> I am persuaded that in a synodal Church, greater light can be shed on the exercise of the Petrine primacy. The Pope is not, by himself, above the Church; but within it as one of the baptized, and within the College of Bishops as a Bishop among Bishops, called at the same time – as Successor of Peter – to lead the Church of Rome which presides in charity over all the Churches[83].

On 15 September 2018, Pope Francis promulgated the Apostolic Constitution *Episcopalis communio* (*Episcopal Communion*), with which he made some modifications to channel the Roman synod even better for the evangelisation of today's world and to strengthen communion and cooperation between the Pope, the bishops and the entire people of God. In this constitution, the Pope quotes his own declaration mentioned above and emphasises his own ministry in relation to the other bishops:

> Another fruit of the Synod of Bishops is that it highlights more and more the profound communion that exists in Christ's Church both between the Pastors and the faithful (every ordained minister being a baptized person among other baptized persons, established by God to feed his flock), and also between the Bishops and the Roman Pontiff, the Pope being a "Bishop among Bishops, called at the same time – as Successor of Peter – to lead the Church of Rome which presides in charity over all the Churches"[84]. This prevents any one subject from existing independently of the other[85].

In accordance with his teaching, Pope Francis has chosen the Bishop of Rome from the various historical papal titles, the oldest, most

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[83] Cf. Saint Ignatius of Antioch, *Epistula ad Romanos*, Proemium: *PG* 5, 686 (original footnote). Francis, Discourse on the occasion of the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops, in *AAS* 107 (2015) 1144.

[84] Address of Pope Francis on Saturday, 17 October 2015 on the occasion of the 50th anniversary of the institution of the synod of bishops (footnote as in the original).

[85] Francis, *Episcopalis communio* (apostolic constitution), Vatican City 2018, no. 10, in *AAS* 110 (2018) 1367.

authentic and ecumenically acceptable title, in order to emphasise the true meaning of the Petrine ministry as a service of unity and communion[86]. On the importance of this choice, the Dicastery for Promoting Christian Unity affirms: "Since the different responsibilities of the Pope are grounded in his ministry as Bishop of Rome, the Church presiding in charity over all the Churches, it is also essential to *highlight his episcopal ministry at the local level*, as a bishop among bishops"[87].

The Dicastery for Promoting Christian Unity distinguishes between the expressions *Ecclesia universalis* (the 'universal Church' in the geographical sense) and *Ecclesia universa* (the 'whole Church', the 'entire Church') and explains: "Roman primacy should be understood not so much as a universal power in a universal Church (*Ecclesia universalis*), but as an authority in service to the communion between the Churches (*communio Ecclesiarum*), that is to the whole Church (*Ecclesia universa*)[88].

The role of the Bishop of Rome in a synodal Church is also indicated in the *Final Document* of the XVI Ordinary General Assembly of the Synod of Bishops: "The Bishop of Rome, who is the foundation of the Church's unity (cf. *LG* 23), is the guarantor of synodality: he is the one who convokes the Church in Synod and presides over it, confirming its results. As the Successor of Peter, he has a unique role in safeguarding the deposit of faith and of morals, ensuring that synodal processes are geared towards unity and witness"[89]. Regarding Eastern Catholic Churches the Document affirms: "As guarantor of unity in diversity, the Bishop of Rome ensures that the identity of the Eastern Catholic Churches is

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[86] From 2020, the official title in the *Annuario Pontificio* is given as Francis, Bishop of Rome. All other titles, which originated mainly in the second millennium, are printed on the next page, after the brief biographical profile, in small type with the note that these are only historical titles. For example: Annuario Pontificio 2020, 33*-24*; *Annuario Pontificio* 2025, non-numbered pages between 20 and 25.

[87] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", 125 (no. 16).

[88] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", 121 (no. 8).

[89] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church*, 45 (no. 131).

safeguarded and that their centuries-old theological, canonical, liturgical, spiritual and pastoral traditions are respected. These Churches are equipped with their own deliberative synodal structures […]"[90].

When the Bishop of Rome exercises his primatial authority as bishop among other bishops and successor of St Peter, he takes into account the reality of the Catholic Church as a communion of particular Churches and individual Churches. The Bishop of Rome has three types of powers: episcopal, patriarchal and primatial[91]. However, officially no distinction has been made between the powers of the Bishop of Rome as Patriarch of the West or as head of the Latin Church (if one wishes to avoid the term patriarch) and as Primate or head of the universal Catholic Church. The Dicastery for Promoting Christian Unity underscores the need to make such a distinction:

> […] a *clearer distinction be made between the different responsibilities of the Pope*, especially between his ministry as head of the Catholic Church and his ministry of unity among all Christians, or more specifically between his patriarchal ministry in the Latin Church and his primatial ministry in the communion of Churches[92].

It is obvious, however, that the Bishop of Rome exercises ordinary episcopal power only in the diocese of Rome, patriarchal power in the Western Patriarchate or Latin Church, and primatial power as successor of St Peter in the whole Catholic Church, which is a communion of Churches. When the Pope exercises primatial power in Eastern patriarchal and major archiepiscopal Churches he will take into consideration the fact that in these Churches the patriarchs or major archbishops "with their synods are the highest

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[90] Francis-XVI Ordinary General Assembly of the Synod of Bishops, *For a Synodal Church*, 45 (no. 132).

[91] The Bishop of Rome was recognized as Patriarch of the West at the ecumenical councils of the first millennium (for details and documentation: Chapter Two, no. 3.3.). During the pontificate of Pope Benedict XVI (2005-2013), the title Patriarch of the West was removed from the list of papal titles (cf. *Annuario Pontificio* 2006, 107*). However, Pope Francis reinstated the title Patriarch of the West in 2024 (cf. *Annuario Pontificio* 2024, 24).

[92] Dicastery for Promoting Christian Unity, "Towards an Exercise of Primacy in the 21st Century", 125 (no. 15).

authority for all business" (*OE* 9). In the Latin Church itself the bishops' conferences, which have gained much importance and competence in recent years, especially in legislative and liturgical matters will also be respected and promoted.

Each Eastern patriarchal or major archiepiscopal Church has its own separate Curia, which assists the patriarch or major archbishop in governing the whole patriarchal or major archiepiscopal Church. However, the Latin (patriarchal) Church does not have its own Curia, although the Vicariate of Rome is the curia of the diocese of Rome. The Roman Curia is therefore common to the Latin or Western Patriarchate and the universal Catholic Church. Since there is no distinction between the different responsibilities of the Pope as Patriarch of the West and head of the Universal Church, there is no separate Curia for the Latin or Western Patriarchate. In the event of a reunification of all the Churches of the East and the ecclesial communities of the West, a separate Curia may be required for the present Latin (patriarchal) Church that is different from the Curia of the universal Church.

Conclusion

The ecclesiology of communion, which was reestablished by the Second Vatican Council, is today the official ecclesiology of the Catholic Church. In accordance with this ecclesiology the Catholic Church is a communion of particular Churches (dioceses or eparchies) and individual Churches (like patriarchal or major archiepiscopal Churches). The ecclesiology of communion has its repercussions on collegiality, synodality and primacy. Through episcopal consecration, a bishop becomes the head of a diocese or eparchy, the bishop of an individual Church and of the universal Church, as he is a member of the episcopal college. He thus exercises the office of bishop at three levels of the ecclesial communion: the particular Church, the individual Church and the universal Church, even if his role at the three levels is different and is determined by authentic tradition and canon law. Although a bishop is primarily responsible for the community of his diocese or eparchy, as a member of the episcopal college he goes beyond parochialism and provincialism and also works for the common

good of his own individual or regional Church and the universal Catholic Church. A bishop participates in councils, synods or bishops' conferences not as a private individual to satisfy his own desires, but as the head of a particular Church and represents it, albeit not in a political and democratic sense.

The Bishop of Rome, successor of St Peter, exercises the Petrine ministry in the universal Church as a service to the communion. He strengthens his brother bishops so that they can exercise their ministry fruitfully, guarantees the unity of the episcopate, safeguards the true Catholic faith and morals, protects liturgical order and canonical discipline, and ensures harmony and consensus among the various Churches of the Catholic communion.

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This book unfolds the complex relationship between primacy and synodality in the universal Church through a multidisciplinary and multidimensional approach that draws on historical, theological and canonical scholarship, and focusses attention on the development of the universal primacy of the Bishop of Rome over the millennia and its impact on the synodality of the Churches of the East and the West. As the first bishop among other bishops, as the first patriarch among other patriarchs, the Bishop of Rome, who is the successor of St Peter and who "presides in love", according to the will of Christ exercises the Petrine ministry of unity and communion in the universal Catholic Church, preserving authentic faith and morals, upholding liturgical order and ensuring canonical discipline according to truth and justice, especially when appeals are made to Rome.

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